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ABSTRACT

The transcript is taken from the testimony of administration and private witnesses on S.1786, the "National Indian Goals and Progress Act". The purpose of this act is to: (1) require an annual review of the effectiveness of all major Federal programs and services for American Indian people to determine whether fundamental human needs and requirements are being met and Federal responsibilities are being properly fulfilled; (2) establish specific annual programs and services and carefully monitor departmental and agency performance in achieving these goals and objectives; and (3) insure that the financial, human, and other resources are made available to achieve the goals and objectives of programs and services. Congress finds that Federal programs designed to benefit and assist Indian people have not been effective in attaining their stated goals. Congress further finds that there is a need for continuing oversight of programs and services administered by the Department of the Interior and the Department of Health, Education, and Welfare and that this oversight function is best conducted by requiring an annual authorization of appropriations. (FF)

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NATIONAL INDIAN GOALS AND PROGRESS ACT

ED 087413

HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

ON

S. 1786

A BILL TO REQUIRE AN ANNUAL AUTHORIZATION FOR APPROPRIATIONS FOR FEDERAL PROGRAMS FOR THE BENEFIT OF AMERICAN INDIAN PEOPLE; ESTABLISH SPECIFIC ANNUAL GOALS TO MEASURE THE EFFECTIVENESS OF THESE PROGRAMS; IMPROVE THE DELIVERY OF SERVICES AND ASSISTANCE; INSURE EFFECTIVE AND CONTINUING CONGRESSIONAL OVERSIGHT; AND FOR OTHER PURPOSES

JUNE 12, 1973

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NATIONAL INDIAN GOALS AND PROGRESS ACT

TUESDAY, JUNE 12, 1973

U.S. SENATE,
SUBCOMMITTEE ON INDIAN AFFAIRS
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice at 9 a.m., in room 3110, Dirksen Office Building, Hon. James Abourezk, chairman, presiding.

Present: Senators Abourezk [presiding], McClure, and Bartlett.

Also present: Jerry T. Verkler, staff director; and Forrest Gerard, professional staff member.

OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABOUREZK. The Subcommittee on Indian Affairs' hearings on the National Indian Goals and Progress Act is now in session.

This is an open public hearing to take testimony from administration and private witnesses on S. 1786, the "National Indian Goals and Progress Act".

It is my firm belief that many contemporary Indian problems can be traced to archaic statutes that for various reasons have never been amended or repealed by the Congress. In this connection, Congress is currently unable to conduct meaningful oversight into the programs and activities of the Bureau of Indian Affairs and the Indian Health Service since both agencies seek annual appropriations for program and administrative purposes through open-ended authorizations.

As a result of this situation, the hard-working members of the House and Senate subcommittees on appropriations are required to assume the major burden for monitoring the Bureau of Indian Affairs and the Indian Health Service activities during the appropriations process. However, these committees are also constrained in their capacity to perform intensive oversight because of the pressures to move a heavy volume of annual appropriation bills.

As a consequence, Congress is deprived of the opportunity to measure agency performance in relation to annual appropriations. I personally consider this to be an intolerable situation in view of the volatile situation we face in the Indian field today. Given the important statutory responsibilities of these two Federal Indian-service agencies, I am committed to the goal of subjecting them to closer congressional scrutiny.

My proposed measure would resolve this dilemma by requiring the Bureau of Indian Affairs and the Indian Health Service to justify an annual authoriziation for appropriations before the substantive

legislative committees of Congress. Moreover, S. 1786 would require the two agencies to initiate management by objective which would impose a greater degree of accountability over their programs and activities. Through such a process, it would be possible to realize a greater return from public funds for the ultimate benefit of the Indian people.

I am fully cognizant of the Indian community's deep-seated concern over any overt or covert action that might tend to alter the Indians' historical relationship with the Federal Government. In this connection, I have taken special precautions to avoid raising any unfounded fears on the part of Indian people with respect to S. 1786. Section 5 of the bill clearly disavows any intent to terminate the trust responsibility assumed by the United States in behalf of the Indian people.

The committee looks forward to receiving the views of the administration and public witnesses with respect to the proposed legislation.

At this point, I shall order that the bill and administration reports be made a part of the official record.

[The text of S. 1786 and departmental reports follow:]

93D CONGRESS
1ST SESSION

S. 1786

IN THE SENATE OF THE UNITED STATES

MAY 14, 1973

Mr. ABOUREZK introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To require an annual authorization for appropriations for Federal programs for the benefit of American Indian people; establish specific annual goals to measure the effectiveness of these programs; improve the delivery of services and assistance; insure effective and continuing Congressional oversight; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Indian Goals and Progress Act".

FINDING

SEC. 2. (a) The Congress hereby finds that Federal programs designed for the benefit and assistance of the American

Indian people have not been effective in attaining their stated goals.

(b) Congress further finds that there is a need for continuing oversight of programs and services administered by the Department of the Interior and the Department of Health, Education, and Welfare for the benefit of Indian people and that this oversight function is best conducted by requiring an annual authorization of appropriations for these programs and services.

PURPOSE

SEC. 3. It is the purpose of this Act to—

(a) require an annual review of the effectiveness of all major Federal programs and services for the benefit of American Indian people to determine whether fundamental human needs and requirements are being met and Federal responsibilities are being properly fulfilled;

(b) establish specific annual program goals and objectives for individual Indian programs and services and carefully monitor departmental and agency performance in achieving these goals and objectives; and

(c) insure that the financial, human and other resources are made available to achieve the goals and objectives of programs and services for the benefit of American Indian people.

ANNUAL AUTHORIZATION

SEC. 4. (a) Notwithstanding any other provisions of law, effective with fiscal year 1975, all authority for appropriations for programs for the benefit of American Indian people administered by the Bureau of Indian Affairs in the Department of the Interior and by the Indian Health Service of the Public Health Service in the Department of Health, Education, and Welfare shall be granted on an annual basis pursuant to a single annual authorization Act.

(b) The Secretaries of the Department of the Interior and Department of Health, Education, and Welfare are directed to prepare and submit to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate, by February 1 of each year, an annual appropriation authorization bill for the fiscal year beginning July 1 which shall include—

(1) specific and detailed requests for appropriation authorizations for programs and services for the benefit of Indian people, including education and welfare service programs, resource management programs, construction programs, Indian health service programs, Indian health facilities programs, and general administrative expenses; and

(2) a detailed statement of the goals and objectives

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sought to be achieved for each program in the fiscal year covered by the annual appropriation authorization Act.

(3) a list of all statutes and appropriation authorizations covered by this subsection 4(b).

(c) This Act shall not apply to authorizations for the payment of Indian claims judgments, to payments made under the Alaska Native Claims Settlement Act of 1971, or to other programs and services for the assistance and benefit of American Indian people that are not set out in subsection 4(b) and included in the list of authorizations submitted to the Congress pursuant to that subsection.

SEC. 5. Nothing in this Act shall be construed as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 11, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on S. 1786, a bill "To require an annual authorization for appropriations for Federal programs for the benefit of American Indian people; establish specific annual goals to measure the effectiveness of these programs; improve the delivery of services and assistance; insure effective and continuing Congressional oversight, and for other purposes."

We recommend against enactment of this bill.

S. 1786 is based upon a finding that Federal Indian programs have not been effective in attaining their stated goals; that it would be of help in improving the performance of such programs to have continuing Congressional oversight of their administration by the Departments of the Interior and Health, Education, and Welfare; and that the best vehicle for obtaining such oversight is the annual authorization of appropriations for such programs. Next, the bill states several purposes, among them to require an annual review of the effec-

tiveness of Federal Indian programs in meeting fundamental human needs and to establish specific annual program goals for such programs. To accomplish these purposes, the bill would establish a new method of authorizing appropriations for Indians programs via a single annual Act covering both Departments' Indian services. The Secretaries of the two Departments would be required to submit a bill by February 1 of each year which would deal with the fiscal year beginning on the subsequent July 1. Such a bill would include specific and detailed requests for appropriations; a detailed statement of the goals and objectives sought to be achieved in the given fiscal year; and a list of all statutes and appropriation authorizations covered by the Act. The Act would not apply to certain matters, including Indian judgment and Alaska Native Claims Act authorizations.

Our primary objection to this bill is that the oversight method which it would establish would be unduly burdensome to both the Congress and to this Department. We also believe that ample oversight by the Congress can be obtained without having recourse to a rigid procedure such as that provided in this bill.

The annual appropriation process for Indian programs is already a complex and time-consuming matter. We have grave doubts as to whether further complicating that process would be productive. At present, the Snyder Act, 25 U.S.C. 13 (42 Stat. 208) is interpreted to be permanent authorizing legislation for the annual appropriation of funds for Indian programs. Thus, this Department need only make two presentations of its budget and the justifications therefor—to the Office of Management and Budget and to the appropriations committees of the Congress. Enactment of S. 1786 would require an additional presentation to the substantive committees of the Congress with the attendant complication which this would entail. An annual authorization process could delay the ultimate appropriation of funds to such an extent that the Department would operate at least a part of each fiscal year under a continuing resolution. Continuing resolutions, while allowing the continuation of ongoing programs, cause the implementation of new programs to be delayed and could, if the delay is inordinate, impair their effectiveness.

Another reason against enactment is that S. 1786 may be construed as raising the danger of termination. Disturbance of the continuing authorization for appropriation of funds for Indian programs could be interpreted to signal a change in the Federal relationship to Indians. Subjecting such appropriations to the procedure of an annual authorizing statute could indicate to Indians that every year the continuation of such programs was in jeopardy. We believe that such an implication should at all cost be avoided.

As stated earlier, we do not in any event see the need for this legislation and believe that oversight can be obtained in other ways. We in this Department recognize the need of the substantive committees to review the programs that they have authorized, to ascertain their effectiveness, and to make any needed changes. We stand ready to come before the Committees on Interior and Insular Affairs at any time to discuss Indian programs and policies. We are willing to meet with the Chairmen of the Committees on Interior and Insular Affairs and their Indian Subcommittees to work out a schedule of meetings to facilitate oversight hearings.

In this connection we wish to report that the Bureau of Indian Affairs has recently developed a Program Planning Data System in order to measure its accomplishments against its stated goals and objectives set forth in submissions from Indian tribes. This new system will allow the Bureau of Indian Affairs and the Secretary of the Interior to see how well we are doing on meeting our responsibility to the Indian people and will allow us to change program direction if we see that we are missing our goals or are going in the wrong direction. This system will also allow us to come before the committees of the Congress and lay before them a measurement of our program accomplishments.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,
Assistant Secretary of the Interior.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
June 19, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of June 5, 1973, for a report on S. 1786, a bill "to require an annual authorization for appropriations for Federal programs for the benefit of American Indian people; establish specific annual goals to measure the effectiveness of these programs; improve the delivery of services and assistance; insure effective and continuing Congressional oversight; and for other purposes."

The bill states that Congress finds that Federal Indian programs have not been effective in reaching stated goals; that there is a need for continuing oversight of such programs; and that the best method for obtaining such oversight is to require an annual authorization of appropriations. According to section 3 of the bill, the purpose of the Act would, therefore, be to require an annual review of the effectiveness of all major Federal programs and services for the benefit of Indians, to establish annual program goals and priorities, and to insure that financial and other resources are made available to achieve the goals. Section 4 of the bill would require the Secretaries of Interior and Health, Education, and Welfare to submit to Congress, by February 1 of each year, a bill authorizing appropriations for Indian programs for the following fiscal year. Each such authorization bill would include specific and detailed requests for appropriations, a detailed statement of the goals sought to be achieved in the fiscal year, and a list of all statutes and appropriations authorizations covered by the bill. Certain exemptions, such as payment of Indian claims, judgments, are provided.

The Department opposes enactment of this bill.

This Department already conducts an annual review of the effectiveness of our programs designed to serve the needs of Native Americans. In addition, we have established goals and objectives for our Native American programs, and these programs are carefully monitored. Furthermore, in the process of developing the President's budget, the Department is consulted to insure that proper financial and other resources are provided to meet the needs of Native Americans. We agree that Congressional oversight on these matters is useful. However, it is our view that the stated purposes of this bill can be accomplished through the mechanisms already available to the Subcommittee for oversight of programs of the Indian Health Service. Therefore, our view is that S. 1786 is simply not necessary to accomplish the purposes of the bill.

On the other hand, new problems may arise as a result of the bill. We believe the operation and optimum management of effective and efficient health services delivery systems is dependent, in part, on assured, timely availability of the resources for carrying out programs. The availability of these resources may be negatively affected by the delays, however brief and infrequent, in the process of obtaining annual authorizations. The high level of confidence which Native Americans generally have in the Indian Health Service program could be seriously eroded by the likely uncertainties introduced by an annual authorization process. Additionally, the same uncertainties could impair the ability of the agency to recruit and retain scarce, essential staff, thus adversely affecting the capacity of the agency to sustain its traditional posture as a competent health organization.

Finally, despite the disclaimer in section 5 of the bill, it is likely that passage of this measure would raise new fears of termination among Native Americans. The bill could be interpreted as a signal to Indians that the long-standing Federal responsibility toward Indians is about to become a short term arrangement, subject to annual review and renewal.

For these reasons, we recommend that this bill not be favorably considered. We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CASPAR W. WEINBERGER, *Secretary.*

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 12, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of May 22, 1973 for the views of the Office of Management and Budget on S. 1786, a bill "To require an annual authorization for appropriations for Federal programs for the benefit of American Indian people; establish specific annual goals to measure the effectiveness of these programs; improve the delivery of services and assistance; insure effective and continuing Congressional oversight; and for other purposes."

The Department of the Interior, in its report and testimony on S. 1786, and the Department of Health, Education and Welfare, in its testimony on the bill, recommend against enactment. Both departments note that the proposed oversight process would be burdensome and that the purposes of the bill can be accomplished by the Committee based on its current authorities. The departments' report and testimonies indicate in detail their reasons for opposing S. 1786.

We concur in the views expressed by the departments and likewise recommend against enactment of S. 1786.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

Senator ABOUREZK. At this time the committee will take a 5-minute recess, and we will go immediately into testimony following the recess.

[Short recess taken.]

Senator ABOUREZK. We have as the first witness this morning the Department of the Interior, represented by Hon. John H. Kyl, accompanied by members of his staff, and I would like Mr. Kyl to introduce those members he has with him, and once again we are pleased to have you back, John, and we have another one of your old colleagues from the House, Jim McClure, as well as Senator Bartlett from Oklahoma. Please introduce your staff and proceed.

STATEMENT OF HON. JOHN H. KYL, ASSISTANT SECRETARY FOR CONGRESSIONAL AND PUBLIC AFFAIRS, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY DENNIS DRABELLE, STAFF ATTORNEY, OFFICE OF LEGISLATION; AND ROBERT BRUCE, COORDINATOR FOR LEGISLATION, BUREAU OF INDIAN AFFAIRS

Mr. KYL. Thank you, Mr. Chairman. We have Robert Bruce, of the Bureau of Indian Affairs, and Dennis Drabelle, staff attorney, Office of Legislation.

We are pleased to be here this morning, Mr. Chairman. Our position is to oppose enactment of this bill. I want to assure you at the outset, however, that it is the letter of the bill—and not the spirit—that we disapprove. By that I mean that we, in the Department of the Interior, believe that congressional oversight is a beneficial enterprise, and we will cooperate wholeheartedly in enabling the Congress to have more of it. Yet we do not believe S. 1786 is the right way to go about enhancing oversight. Our objections, then, concern method and not purpose.

S. 1786 would alter the existing structure whereby the Snyder Act serves as perennial authorization for appropriations to carry out the Indian programs of this Department and the Department of Health, Education, and Welfare.

Permit me to interject, Mr. Chairman, the Snyder Act was very specific in the matters to be covered by such an authorization saying the Federal Government was responsible for and authorized to provide for the education, welfare, health, industrial assistance, irrigation improvement, administration of land, employment of superintendent, matrons, farmers, Indian police, Indian judges, such buildings and grounds essential to the operation, and all expenses incidental to the administration, of Indian Affairs.

Senator ABOUREZK. It also includes the purchase of horsedrawn vehicles, Mr. Secretary, I thought I would remind you.

Mr. KYL. Yes, we omitted that, because as far as I know we no longer have that important function.

Under S. 1786 the two Departments would be required to obtain authorizing legislation for these programs each year. They would have to draft and submit an authorizing bill to the Committee on Interior and Insular Affairs which would include specific and detailed requests for funds; and a list of all statutes involved.

Our first objection to this bill is that it would almost inevitably complicate and delay the appropriation of funds for Indian programs. The annual appropriation process is already a complex and time-consuming matter. We question whether making this process more cumbersome by adding another layer of hearings is in the best interests of American Indians. In particular, we note that delay in obtaining appropriations could result in a late start for new programs; that is, those which could not be maintained temporarily by virtue of a continuing resolution of the Congress.

Our second major objection to S. 1786 is by way of anticipation. Although we have not had time to consult with Indian groups—I add the word "formally"—on this bill, we would expect the argument to be raised that it creates the spector of termination. Under S. 1786 if either Interior Committee failed to agree on an authorizing bill, the programs covered in that bill would, in effect be canceled. Under the present system, affirmative action by the Congress and the concurrence of the President would be required to cut off Indian programs.

Such a change in the Federal relationship with Indians could be viewed as a move in the direction of termination and should, I believe, be avoided for this reason.

Last, Mr. Chairman, I believe we can accomplish the objective of closer congressional oversight more easily. We stand ready to come before the Interior Committee at any time to discuss Indian programs and policies. We are more than willing to meet with you or your staff, Mr. Chairman, to work out a schedule for whatever oversight sessions you feel are necessary. We believe that ample oversight can be attained without disturbing the existing authorization and appropriations structure.

This concludes my statement.

Senator ABOUREZK. Thank you, Mr. Secretary. I would like to go back briefly to your statement and ask you with regard to the first page, where you say that the departments that come under the jurisdiction of this bill would have to draft and submit an authorizing bill to the

committees, the appropriation committees, which would include specific detailed requests for funds. Don't you have to do that now before the appropriations committees?

Mr. KYL. Yes, sir.

Senator ABOUREZK. In effect, you are not duplicating any work, it is a matter of the Departments not wanting to come up here and do any more work, having the Appropriations look into these matters.

Mr. KYL. Not for that reason. We can always find the time and personnel to appear at any hearings before the authorizing committee or Appropriations Committees. The time consumption for us is not a matter of concern. The concern is that the Indian programs could be seriously delayed and there is, in fact, if this bill were passed, a reversal of more than form.

At the present time these programs are perennial, it takes a specific act of Congress to stop them. This is the point about which the Indians to whom I have spoken have a great deal of concern.

Senator ABOUREZK. You talk about delaying the appropriations process. I would like to know, if you can tell me, I assume you have some of your staff with you who have that information, what time of the year you ordinarily come up for appropriations and when you go before the committees and when is the appropriations bill finally signed?

Mr. KYL. Generally, sir, of course it depends on the desire of the committees, but normally that activity starts in February.

Senator ABOUREZK. When did it start this year?

Mr. KYL. I believe the first hearings were before the Appropriations Committee and the House in February. I would have to check the record on that.

Senator ABOUREZK. Do you have anybody with you who knows the exact date as to when you meet with the Senate and House Appropriations Committees for your appropriation?

Mr. KYL. The Senate hearings start today, sir.

Senator ABOUREZK. This is June, and I assume you are saying the Indian Affairs Subcommittee can't complete the authorizations process by June of every year. You aren't assuming that we can't complete our authorization by June of every year, are you?

Mr. KYL. No, sir, I am not assuming that. I have "but one lamp by which to guide my steps" and that is the history of these matters. That history does not indicate in recent years any speed insofar as approval of appropriations is concerned. I am assuming we are going to have to have continuing appropriations again this year.

Senator ABOUREZK. You mean because of the lateness of the BIA coming up with the appropriations?

Mr. KYL. No, sir, we have been ready to come up for a long time.

Senator ABOUREZK. What was the reason for the delay before the Senate committee this year?

Mr. KYL. The prerogative of setting those hearings is not with us.

Senator ABOUREZK. Did the chairman give any reason for not setting the hearings right away?

Mr. KYL. Not to my knowledge, sir, there may have been one.

Senator ABOUREZK. You don't know the reason why he didn't?

Mr. KYL. No, I don't know, sir.

Senator ABOUREZK. Well, for the record, Senator Bible, who is chairman of that Appropriations Subcommittee, said he refused to hear that subcommittee until they sent up a line officer to testify, or failing appointing a commissioner, sending up a line officer. That is the information that comes from Senator Bible's subcommittee. That is one of the reasons I have been asking you, Mr. Secretary, during your appearance here as to the progress of an appointment of an Indian Affairs Commissioner. Has there been any new movement on that, by the way?

Mr. KYL. Yes, there has. Are you waiting for a further response on that, sir?

Senator ABOUREZK. Yes, I am.

Mr. KYL. As a matter of fact, the reason for the delay—and I am sure that that has now been corrected—is that certain information which had to be filed had not been filed. The request for that information has been sent to the State of Oklahoma and has not been forwarded and this is the cause for at least the recent delays in this situation.

Senator ABOUREZK. I understand that movement is being made and that hopefully it will be made very soon.

Senator BARTLETT. Mr. Chairman, I spoke yesterday with Secretary Morton and he advised me of the same information. And later I talked with Marvin Franklin, and he advised me he learned of the form of conflict of interest that needed to be filled out, and that he had not received it prior to yesterday, and he obtained a copy and filled it out and it has been turned in.

Senator MCCLURE. Might I inquire of the Senator, was that form mailed to him?

Senator BARTLETT. The form had been mailed initially to Oklahoma.

Senator MCCLURE. That might explain the delay.

Senator BARTLETT. That is a good point, and that may be.

Mr. KYL. If the Senator will permit one further comment in that regard. Before I was confirmed I received a call from an official at the White House saying "Aren't you interested in this position," and I said, "Yes, I am." He said, "Well you have not responded to our request, and it was, incidentally, the same form." I told the individual it had been delivered to my apartment the night before, it had taken only 11 days for that letter to get from the White House to 200 C Street in the city of Washington.

Senator MCCLURE. Of course, that was not mailed by airmail, but yesterday I received a letter mailed May 25 from Seattle, because of airmail.

Mr. KYL. There was the problem to be very honest, and it has been recognized.

Senator ABOUREZK. Apparently you weren't here the day the postal officials were here telling us how efficient they were at Wounded Knee.

Senator MCCLURE. I think there is enough efficiency to speed around Wounded Knee.

Senator ABOUREZK. I would like to ask you then—I want to make one more comment, Mr. Secretary, on your testimony.

Pertaining to your second major objection, and that is that you raised the specter of termination. Nobody else has raised that except the Department. I would point out, in section 5 of the bill, and I would

like to read that section, "Nothing in this act shall be construed as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people." That is about the only comment I have on your specific testimony.

Mr. KYL. There are two elements involved here, one is termination itself with the usual connotation that that term has. I have spoken to a number of individuals who have worried about that problem of termination because they are somewhat suspicious, and they have reason to be suspicions. Over the years our policies have moved from one side to the other, up and down.

The second element is that of the program itself. Under the present situation we have a continuing program, under which, I say again, it would require an affirmative action by the Congress and the President to terminate a program. When we come up for authorizations each year on each program in effect that program is then reviewed with the possibility of termination. So we have both elements involved.

Senator ABOUREZK. It is up for review each time you come to the Appropriations Committee. And there is a possibility of termination each year in that respect. So there really is very little distinction. The only difference, as I see it, and I saw no testimony or argument that would point otherwise, the only difference is that this committee has more time than the Appropriations Committee to oversee the activities of the Bureau of Indian Affairs and Indian Health Service. I have yet to hear a good argument for the fact that the Bureau of Indian Affairs and Indian Health Service don't need more oversight. I think a great deal more oversight is needed rather than less oversight. I, as the Secretary knows—he was an elective politician for many years—I have been an elective politician for a short time. There is one basic principle that applies when you have to answer somebody periodically, generally you do your best to respond to those people. That hasn't been happening in the BIA or Indian Health Service politician.

In my opinion, simply to make those two agencies more responsive—and I don't know if you want to debate the fact that they need more of that—I think they do. I think you agree with that, probably.

Mr. KYL. Our purpose here is certainly not one of evasion. We do feel this kind of oversight can be applied, without taking this rather extreme step.

Annually the entire Department of the Interior has submitted itself to early hearings, sometimes running several days, before the committee, and other bodies, in what are called oversight hearings. All oversight programs are reviewed. I would not argue that the review is sufficient. I would argue that it has not been sufficient. But oversight can be obtained in other ways. We would be willing to cooperate in any oversight hearings the committee might desire.

Senator ABOUREZK. I wonder if you can identify for the committee the authorizations used by the BIA to adjust the purpose of authorization of the ceiling on funds, if any, and the date the various authorizations were enacted by Congress. If you don't have that information now, I wonder if you will make it available to the committee?

Mr. KYL. If we did that at this moment, sir, it would be at the risk of leaving off something of importance. I would rather submit that information.

Senator ABOUREZK. All right.

[The information referred to above follows:]

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 2 1973

Dear Senator Abourezk:

Enclosed is the information which you requested that we provide for the Record of your June 12 hearing on S. 1786, "The National Indian Goals and Progress Act."

Sincerely yours,

Assistant to the
Secretary of the Interior

Enclosure

Honorable James Abourezk
Chairman, Subcommittee on
Indian Affairs
United States Senate
Washington, D.C. 20510

SUMMARY OF STATUTORY AUTHORIZATIONS FOR
BUREAU OF INDIAN AFFAIRS
ACTIVITIES AND APPROPRIATIONS

16 USC 583; Act of March 29, 1944 (58 Stat. 132)

16 USC 590a, 590f; Act of April 27, 1935 (49 Stat. 163, 164) as amended

16 USC 594; Act of September 20, 1922 (42 Stat. 857)

23 USC 201, 203; Act of August 27, 1958 (72 Stat. 906) as amended.

25 USC 13; Act of November 2, 1921 (42 Stat. 208).

25 USC 70n-1; Act of November 4, 1963 (77 Stat. 301) as amended.

25 USC 123; Act of May 18, 1916 (39 Stat. 158)

25 USC 305, 305a, 305c; Act of August 27, 1935 (49 Stat. 891, 892) as amended

25 USC 309, 309a; Act of August 3, 1956 (70 Stat. 986) as amended

25 USC 318a; Act of May 26, 1928 (45 Stat. 750)

25 USC 381; Act of February 8, 1887 (24 Stat. 390)

25 USC 385; Act of April 4, 1910 (36 Stat. 270, 272), Act of August 1, 1914 (38 Stat. 583), and Act of August 7, 1946 (60 Stat. 867).

25 USC 452; Act of April 16, 1934 (48 Stat. 596) as amended.

25 USC 465; Section 5 of the Act of June 18, 1934 (48 Stat. 985)

25 USC 470; Section 10 of the Act of June 18, 1934 (48 Stat. 986) as amended

25 USC 470a; Act of June 28, 1941 (55 Stat. 316)

25 USC 471; Section 11 of the Act of June 18, 1934 (48 Stat. 986)

25 USC 631-640; Act of April 19, 1950 (64 Stat. 44-47) as amended

31 USC 638a (a); Act of August 2, 1946, (60 Stat. 806) as amended

48 USC 169; Act of January 27, 1906, (33 Stat. 619)

48 USC 250-250f; Act of September 1, 1937, (50 Stat. 900)

Act of August 23, 1958 (72 Stat. 834)

BUREAU OF INDIAN AFFAIRS

APPROPRIATION--EDUCATION AND WELFARE SERVICES

ACTIVITIES

1. Educational assistance, facilities and services.
2. Welfare and guidance services.
3. Relocation and adult vocational training
4. Maintaining law and order

APPROPRIATION LANGUAGE

For expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment (in advance or from date of admission), of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order, and payment of rewards for information or evidence concerning violations of law on Indian reservations or lands; and operation of Indian arts and crafts shops.

BUREAU OF INDIAN AFFAIRS

APPROPRIATION — EDUCATION AND WELFARE SERVICES (continued)

ACTIVITY	DESCRIPTION OF ACTIVITY
1. Educational assistance, facilities and service	For the support and education of Indian pupils in boarding and day schools operated in the United States where available public school facilities are inadequate or nonexistent. For assistance to public school districts for partial costs of Indian education, including transportation of pupils and school lunches, and for assistance to Indian pupils attending vocational or higher educational institutions. For education and training of adult Indians who are members of tribes over which Federal supervision is being terminated by acts of Congress.

AUTHORIZING LEGISLATION

25 U.S.C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise, and expend such moneys as Congress may from time to time appropriate * * * general support and civilization including education."

48 U.S.C. 169: "* * * The education of the Eskimos and Indians in Alaska shall remain under the direction and control of the Secretary of the Interior, and schools for and among the Eskimos and Indians of Alaska shall be provided for by an annual appropriation and the Eskimos and Indian children of Alaska shall have the same right to be admitted to any Indian boarding school as the Indian children in the States or Territories of the United States."

BUREAU OF INDIAN AFFAIRS

APPROPRIATION--EDUCATION AND WELFARE SERVICES (continued)

ACTIVITY	DESCRIPTION OF ACTIVITY
2. Welfare and guidance services	For welfare services to Indian children and adults, including general assistance for needy Indians, foster home and institutional care for dependent, neglected, and handicapped children, and counseling, when necessary, to help Indians to cope with social problems, and to assist in the repair, rehabilitation and construction of housing for Indians who cannot obtain such assistance from other sources.

AUTHORIZING LEGISLATION

25 U.S.C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise and expend such moneys as Congress may from time to time appropriate for the benefit, care, and assistance of the Indians * * *."

ACTIVITY	DESCRIPTION OF ACTIVITY
3. Relocation and adult vocational training	For assistance in finding job opportunities outside or near reservations for Indians who live on overcrowded reservations, both to relieve the overcrowding and to aid in integration of the Indian people with the general population. For temporary financial assistance to Indian families for movement to and settlement in areas where jobs are available. For vocational training for adult Indians.

APPROPRIATION--EDUCATION AND WELFARE SERVICES (continued)

AUTHORIZING LEGISLATION (continued)

25 U.S.C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise and expend such moneys as Congress may from time to time appropriate * * * for general support and civilization * * * for industrial assistance and advancement."

25 U.S.C. 309: "In order to help adult Indians who reside on or near Indian reservations to obtain reasonable and satisfactory employment, the Secretary of the Interior is authorized to undertake a program of vocational training * * *."

25 U.S.C. 309a: "There is authorized to be appropriated * * * $25,000,000 for each fiscal year, and not to exceed $1,500,000 of such sum shall be available for administrative purposes."

25 U.S.C. 631-640: "The Secretary of the Interior is hereby authorized and directed to undertake, within the limits of the funds from time to time appropriated pursuant to this title, a program of basic improvements for the conservation and development of the resources of the Navajo and Hopi Indians * * * such program shall include the following projects * * * development of opportunities for off-reservation employment and resettlement and assistance in adjustments related thereto."

ACTIVITY	DESCRIPTION OF ACTIVITY
4. Maintaining law and order	For the services and expenses of personnel engaged in law enforcement and suppression of crime on Indian reservations in the United States.

AUTHORIZING LEGISLATION

25 U.S.C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise, and expend such moneys as Congress may from time to time appropriate * * * for the employment of * * * Indian police, Indian judges * * * for the suppression of traffic in intoxicating liquors and deleterious drugs."

BUREAU OF INDIAN AFFAIRS

APPROPRIATION--RESOURCES MANAGEMENT

ACTIVITIES

1. Forest and range lands.
2. Fire suppression.
3. Agricultural and industrial assistance.
4. Soil and moisture conservation.
5. Maintenance of roads.
6. Development of Indian arts and crafts.
7. Management of Indian trust property.
8. Repair and maintenance of buildings and utilities.
9. Operation, repair, and maintenance of Indian irrigation systems.

APPROPRIATION LANGUAGE

For expenses necessary for management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; and development of Indian arts and crafts as authorized by law.

APPROPRIATION--RESOURCES MANAGEMENT (Continued)

ACTIVITY	DESCRIPTION OF ACTIVITY
1. Forest and range lands	Management and protection of forest, range, and wildlife resources on nearly 50 million acres of Indian lands involve conducting forest and range surveys; development of management plans in accordance with principles of sustained yield; negotiating and supervising sales of timber and other forest products; establishing range units and grazing seasons; regulating stocking of range and range use practices; operation and maintenance of livestock watering facilities, and forest and range fire detection and presuppression.

AUTHORIZING LEGISLATION

25 U. S. C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise, and expend such moneys as Congress may from time to time appropriate * * * for industrial assistance and advancement and general administration of Indian property."

16 U. S. C. 583: "In order to promote the stability of forest industries * * * through continuous supplies of timber in order to provide for a continuous and ample supply of forest products; and in order to secure the benefits of forest in maintenance of water supply regulation of stream flow, prevention of soil erosion * * * and preservation of wildlife, the Secretary of Agriculture and the Secretary of the Interior are severally authorized to establish * * * cooperative sustained-yield units."

ACTIVITY	DESCRIPTION OF ACTIVITY
2. Fire suppression and emergency rehabilitation	For suppression or emergency prevention of fires on or threatening Indian reservations, including reimbursement to local fire fighting agencies and for emergency rehabilitation of burned-over areas.

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APPROPRIATION--RESOURCES MANAGEMENT (continued)

AUTHORIZING LEGISLATION

25 U. S. C. 13: "The Bureau of Indian Affairs shall direct, supervise and expend such moneys as Congress may from time to time appropriate * * * for general administration of Indian property."

16 U. S. C. 594: "The Secretary of the Interior is authorized to protect and preserve from fire * * * timber owned by the United States upon the public lands * * * Indian reservations or other lands under the jurisdiction of the Department of the Interior owned by the United States."

ACTIVITY	DESCRIPTION OF ACTIVITY
3. Agricultural and industrial assistance	This activity provides for improved methods in farming, homemaking, the management of a revolving loan credit program for small business enterprises, and formulation of plans and program for the economic development of the Indian people.

AUTHORIZING LEGISLATION

25 U. S. C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise, and expend such moneys as Congress may from time to time appropriate * * * for industrial assistance and advancement."

25 U. S. C. 631 - 640: "The Secretary of the Interior is hereby authorized and directed to undertake, within the limits of funds from time to time * * * a program * * * for * * * development of the resources of the Navajo and Hopi Indians * * * surveys and studies of timber, coal, mineral and other * * * resources * * * development of industrial and business enterprises * * *."

APPROPRIATION--RESOURCES MANAGEMENT (continued)

48 U. S. C. 250 - 250f: "A necessity for providing means of subsistence for the Eskimos and other natives of Alaska is declared to exist. It is also declared to be the policy of Congress, and the purpose of sections 250-250n of this title, to establish and maintain for the said natives of Alaska a self-sustaining economy by acquiring and organizing for and on behalf of said natives a reindeer industry or business, by encouraging and developing native activity and responsibility in all branches of the said industry or business, and by preserving the native character of the said industry or business thus established. (Sept. 1, 1937, ch. 897, § 1, 50 Stat. 900.) * * * Acquisition of reindeer and other property * * * Filing claim of title to reindeer by nonnatives * * * Acceptance of gifts * * * Acceptance and expenditure of Federal funds * * * Revolving fund; moneys not to be covered into Treasury * * * Management of industry by Secretary; aim of management."

ACTIVITY	DESCRIPTION OF ACTIVITY
4. Soil and moisture conservation	This activity aids in the economic rehabilitation of the Indian people through the planning, initiation and development of proper land-use practices to check loss of productive soil by erosion and to promote greater and more effective utilization of their soil and water resources.

AUTHORIZING LEGISLATION

16 U. S. C. 590a, 590f: "* * * to conduct surveys, investigations and research relating to the character of soil erosion and preventive measures needed * * * to carry out preventive measures * * * there are authorized to be appropriated such sums as may be necessary (function transferred from Agriculture to Interior with respect to lands under its jurisdiction by 1939 Reorganization Plan No. IV)."

APPROPRIATION--RESOURCES MANAGEMENT (continued)

25 U. S. C. 631 - 640: "The Secretary of the Interior is hereby authorized and directed to undertake within the limits of the funds from time to time * * * a program * * * for the conservation and development of the resources of the Navajo and Hopi Indians * * * soil and water conservation and range improvement work * * *."

ACTIVITY	DESCRIPTION OF ACTIVITY
5. Maintenance of roads	This activity provides for maintenance and repair of roads on Indian reservations.

AUTHORIZING LEGISLATION

25 U. S. C. 318a: "Appropriations are authorized * * * for material, equipment, supervision and engineering and the employment of Indian labor in survey, improvement, construction, and maintenance of Indian reservation roads not eligible to Government aid under the Federal Highway Act * * *."

ACTIVITY	DESCRIPTION OF ACTIVITY
6. Development of Indian Arts and Crafts	For the Indian Arts and Crafts Board which was created by Congress in 1935 to stimulate production and marketing of products of Indian craftsmanship by organizing and assisting Indian production groups by establishing standards of quality and genuineness; conducting research in marketing, design, and production methods; and protecting Indian crafts from unfair competition.

APPROPRIATION--RESOURCES MANAGEMENT (continued)

AUTHORIZING LEGISLATION

25 U. S. C. Chapter 7A (Sections 305, 305a, 305c): "A board is created in the Department of the Interior to be known as 'Indian Arts and Crafts Board' * * * to promote the economic welfare of the Indian tribes and the Indian wards of the Government through the development of Indian arts and crafts * * *. There is authorized to be appropriated * * * such sums as may be necessary to defray the expenses of the Board and carry out the purposes and provisions of 305 - 305c and 305d - 305e of this title."

ACTIVITY	DESCRIPTION OF ACTIVITY
7. Management of Indian trust property	Banking services are provided for Indians; land is purchased, sold, exchanged, and leased; and Indian property and money rights are safeguarded. Consolidation or disposal of fractionated land holdings, especially in those areas affected by readjustment legislation, is accomplished.

AUTHORIZING LEGISLATION

25 U. S. C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise, and expend such moneys as Congress may from time to time appropriate * * * for * * * general administration of Indian property."

ACTIVITY	DESCRIPTION OF ACTIVITY
8. Repair and maintenance of buildings and utilities	For the repair and maintenance of school facilities; office and quarters buildings; warehouses, garages, and shops; water, sewage, heating, and electrical plants; and communication systems.

APPROPRIATION--RESOURCES MANAGEMENT (continued)

AUTHORIZING LEGISLATION

25 U. S. C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise, and expend such moneys as Congress may from time to time appropriate * * * for the enlargement, extension, improvement and repair of the buildings and grounds of existing plants and projects."

48 U. S. C. 169: "* * * The education of the Eskimos and Indians in Alaska shall remain under the direction and control of the Secretary of the Interior, and schools for and among the Eskimos and Indians of Alaska shall be provided for by an annual appropriation, and the Eskimo and Indian children of Alaska shall have the same right to be admitted to any Indian boarding school as the Indian children in the States or Territories of the United States."

ACTIVITY	DESCRIPTION OF ACTIVITY
9. Operation, repair and maintenance of Indian irrigation systems	Maintenance, operation, repair, and improvement of irrigation systems on Indian reservations and allotments; which consists of cleaning of canals and laterals; the operation, maintenance and repair of storage reservoirs and diversion dams, the repair or replacement of water control structures; the repair and operation of pumping plants and steam gauging and recording; and the purchase of water and water rights. About 59 percent of the cost is financed from collections from water users leaving 41 percent to be met from funds appropriated under this activity.

APPROPRIATION--RESOURCES MANAGEMENT (continued)

AUTHORIZING LEGISLATION

25 U. S. C. 13: "The Bureau of Indian Affairs shall direct, supervise, and expend such moneys as Congress may from time to time appropriate * * * for extension, improvement, operation and maintenance of existing Indian irrigation systems and for development of water supplies."

25 U. S. C. 381: "In cases where the use of water for irrigation is necessary to render the lands within any Indian reservation available for agricultural purposes, the Secretary of the Interior is authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution there of among the Indians residing upon any such reservations; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor.

25 U. S. C. 385: "For lands irrigable under any irrigation system or reclamation project the Secretary of the Interior may fix maintenance charges which shall be paid as he may direct, such payments to be available for use in maintaining the project or system for which collected: * * * That all moneys expended under this provision shall be reimbursable where the Indians have adequate funds to repay the Government, such reimbursements to be made under such rules and regulations as the Secretary of the Interior may prescribe: * * * That the Secretary of the Interior is authorized and directed to apportion the cost of any irri ... on project constructed for Indians and made reimbursable out of tribal funds of said Indians in accordance with the benefits received by each individual Indian so far as practicable from said irrigation project, said cost to be apportioned against such individual Indian under such rules, regulations, and conditions as the Secretary of the Interior may prescribe.

BUREAU OF INDIAN AFFAIRS

APPROPRIATION--CONSTRUCTION

ACTIVITIES

1. Buildings and utilities
2. Irrigation systems
3. Land acquisition

APPROPRIATION LANGUAGE

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities; acquisition of lands and interests in lands; preparation of lands for farming; and architectural and engineering services by contract; to remain available until expended: PROVIDED, That no part of the sum herein appropriated shall be used for the acquisition of land within the States of Arizona, California, Colorado, New Mexico, South Dakota, Utah, and Wyoming outside of the boundaries of existing Indian reservations except lands authorized to be acquired for the Navajo Indian Irrigation project as provided by law: PROVIDED FURTHER, That no part of this appropriation shall be used for the acquisition of land or water rights within the States of Nevada, Oregon, and Washington either inside or outside the boundaries of existing reservations except such lands as may be required for replacement of the Wild Horse Dam in the State of Nevada: PROVIDED FURTHER, That such amounts as may be available for the construction of the Navajo Indian Irrigation project may be transferred to the Bureau of Reclamation.

APPROPRIATION—CONSTRUCTION (continued)

ACTIVITY	DESCRIPTION OF ACTIVITY
1. Buildings and utilities	The construction and additions to schools, dormitories, quarters, office and other buildings; improvement to sewer systems and waterworks; major alterations and rehabilitation of existing buildings and utilities; and preparation of plans and engineering supervision and surveys.

AUTHORIZING LEGISLATION

25 U.S.C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians * * * for the enlargement, extension, improvement and repair of the buildings and grounds of existing plants and projects."

25 U.S.C. 631-640: "The Secretary of the Interior is hereby authorized and directed to undertake, within the limits of the funds from time to time * * * a program * * * for the construction and development of the resources of the Navajo and Hopi Indians * * * School buildings and equipment, and other educational measures; * * * Housing and necessary facilities and equipment.* * *

ACTIVITY	DESCRIPTION OF ACTIVITY
2. Irrigation systems	The construction, extension, and rehabilitation of irrigation systems on Indian reservations for the utilization of irrigable lands. This activity also provides funds for the Navajo Indian Irrigation Project, located on the Navajo Indian Reservation in New Mexico

AUTHORIZING LEGISLATION

25 U.S.C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise, and expend such moneys as Congress may from time to time appropriate * * * for the extension, improvement, operation, and maintenance of existing Indian irrigation systems and for development of water supplies."

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APPROPRIATION—CONSTRUCTION (continued)

AUTHORIZING LEGISLATION (continued)

25 U.S.C. 631-640: "The Secretary of the Interior is hereby authorized and directed to undertake, within the limits of the funds from time to time * * * a program * * * for the construction and development of the resources of the Navajo and Hopi Indians * * * for the completion and extension of existing irrigation projects, and completion of the investigation to determine the feasibility of the San Juan-Shiprock irrigation project."

ACTIVITY	DESCRIPTION OF ACTIVITY
3. Land acquisition	Purchases are made to consolidate lands in heirship status.

AUTHORIZING LEGISLATION

25 U.S.C. 465: "The Secretary of the Interior is authorized * * * to acquire, through purchase, relinquishment, gift, exhange, or assignment, any interest in lands, water rights, or surface rights to lands * * * including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians."

"For the acquisition of such lands, interests in lands, * * * and for expenses incident to such acquisition, there is authorized to be appropriated * * * not to exceed $2,000,000 in any one fiscal year * * *."

BUREAU OF INDIAN AFFAIRS

APPROPRIATION--ROAD CONSTRUCTION (LIQUIDATION OF CONTRACT AUTHORIZATION)

ACTIVITIES

1. Federal-aid highway roads
2. Navajo-Hopi roads, Routes 1 and 3

APPROPRIATION LANGUAGE

For liquidation of obligations incurred pursuant to authority contained in title 23, United States Code, section 203, to remain available until expended.

BUREAU OF INDIAN AFFAIRS

APPROPRIATION—ROAD CONSTRUCTION (LIQUIDATION OF CONTRACT AUTHORIZATION) (continued)

ACTIVITY	DESCRIPTION OF ACTIVITY
1. Federal-aid highway roads	For the construction of roads and trails; the rebuilding of worn-out, unsafe, and low-standard roads and bridges on Indian reservations. Improved roads will be turned over to local governments willing to assume future maintenance responsibilities.

AUTHORIZING LEGISLATION

45 Stat. 750, 25 U.S.C. 318a: "Appropriations are authorized * * * for material, equipment, supervision and engineering and the employment of Indian labor in survey, improvement, construction, and maintenance of Indian reservation roads not eligible to Government aid under the Federal Highway Act * * *."

23 U.S.C. 201: "The provisions of this title shall apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations heretofore made, providing for expenditure of Federal funds on * * * Indian reservation roads. All such authorizations and expenditures shall continue in full force and effect* * *."

23 U.S.C. 203: "Funds authorized for * * * Indian reservation roads shall be available for contract upon apportionment, or a date not earlier than one year preceding the beginning of the fiscal year for which authorized if no apportionment is required. Any amount remaining unexpended for a period of two years after the close of the fiscal year for which authorized shall lapse. The Secretary * * * is granted authority to incur obligations, approve projects, and enter into contracts under such authorizations, and his action in doing so shall be deemed a contractual obligation of the United States for the payment of the cost thereof and such funds shall be deemed to have been expended when so obligated * * *."

APPROPRIATION—ROAD CONSTRUCTION (LIQUIDATION OF CONTRACT AUTHORIZATION) (continued)

AUTHORIZING LEGISLATION (continued)

25 U.S.C. 631-640: "The Secretary of the Interior is hereby authorized and directed to undertake, within the limits of the funds from time to time * * * a program for the construction and development of the resources of the Navajo and Hopi Indians * * * Roads and Trails."

ACTIVITY	DESCRIPTION OF ACTIVITY
2. Navajo-Hopi roads, Routes 1 and 3	For the construction and improvements of Routes 1 and 3 on the Navajo and Hopi Reservations.

AUTHORIZING LEGISLATION

25 U.S.C. 631-640: "The Secretary of the Interior is hereby authorized and directed to undertake, within the limits of the funds from time to time * * * a program for the construction and development of the resources of the Navajo and Hopi Indians * * * Roads and Trails."

Act of August 23, 1958 (Public Law 85-740, 72 Stat. 834): Amends section 7 of the Navajo Hopi Act of April 19, 1950 (64 Stat. 44), to read: "Roads and trails, $40,000,000; of which not less than $20,000,000 shall be (a) available for contract authority for such construction and improvement of the roads designated as Route 1 and Route 3 on the Navajo and Hopi Indian Reservations * * *."

BUREAU OF INDIAN AFFAIRS

APPROPRIATION—GENERAL ADMINISTRATIVE EXPENSES

ACTIVITIES

1. Departmental offices
2. Field offices

APPROPRIATION LANGUAGE

For expenses necessary for the general administration of the Bureau of Indian Affairs, including such expenses in field offices.

APPROPRIATION—GENERAL ADMINISTRATIVE EXPENSES (continued)

ACTIVITY	DESCRIPTION OF ACTIVITY
1. Department office 2. Field offices	Direction and guidance are furnished at the central office and area organizational levels with regard to administrative methods and organization, budget and fiscal management, personnel management, inspection services, property and supply management, records management and office services.

AUTHORIZING LEGISLATION

25 U.S.C. 13: "The Bureau of Indian Affairs * * * shall direct, supervise, and expend such moneys as Congress may from time to time appropriate * * * for general and incidental expenses in connection with the administration of Indian Affairs."

APPROPRIATION--TRIBAL FUNDS (Trust fund)

ACTIVITIES

1. Education and welfare services
2. Resources management
3. Construction and land acquisition
4. General tribal affairs
5. Payments to Indian tribes
6. Miscellaneous tribal activities
7. Advances to Indian tribes

APPROPRIATION LANGUAGE

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated $3,000,000 from tribal funds not otherwise available for expenditure for the benefit of Indians and Indian tribes, including pay and travel expenses of employees; care, tuition, and other assistance to Indian children attending public and private schools (which may be paid in advance of from date of admission); purchase of land and improvements on land, title to which shall be taken in the name of the United States in trust for the tribe for which purchased; lease of lands and water rights; compensation and expenses of attorneys and other persons employed by Indian tribes under approved contracts; pay, travel, and other expenses of tribal officers, councils, and committees thereof, or other tribal organizations, including mileage for use of privately owned automobiles and per diem in lieu of subsistence at rates established administratively but not to exceed those applicable to civilian employees of the Government, relief of Indians without regard to section 7 of the Act of May 27, 1930 (46 Stat. 391), including cash grants; and employment of a curator for the Osage Museum, who shall be appointed with the approval of the Osage Tribal Council and without regard to the classification laws: PROVIDED, That in addition to the amount appropriated herein, tribal funds may be advanced to Indian tribes during the current fiscal year for such purposes as may be designated by the governing body of the particular tribe involved and approved by the Secretary: PROVIDED FURTHER, That nothing contained in this paragraph or in any other provision of law shall be construed to authorize the expenditure of funds derived from appropriations in satisfaction of awards of the Indian Claims Commission and the Court of Claims, except for such

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APPROPRIATION--TRIBAL FUNDS (Trust fund) (continued)

amounts as may be necessary to pay attorney fees, expenses of litigation, and expenses of program planning, until after legislation has been enacted that sets forth the purposes for which said funds will be used: PROVIDED, HOWEVER, That no part of this appropriation or other tribal funds shall be used for the acquisition of land or water rights within the States of Nevada, Oregon, and Washington, either inside or outside the boundaries of existing Indian reservations, if such acquisition results in the property being exempted from local taxation, except as provided for by the Act of July 24, 1956 (70 Stat. 627).

APPROPRIATION--TRIBAL FUNDS (Trust fund) (continued)

ACTIVITIES	DESCRIPTION OF ACTIVITIES
1. Education and welfare services 2. Resources management 3. Construction and land acquisition 4. General tribal affairs 5. Payments to Indian tribes 6. Miscellaneous tribal activities 7. Advances to Indian tribes	Funds held in trust for Indian tribes under the provisions of various acts of Congress are used for expenses of tribal governments, administration of Indian tribal affairs, employment of tribal attorneys, establishment and operation of tribal enterprises, and relief of Indians. The tribes are encouraged to develop plans for beneficial use of their funds.

AUTHORIZING LEGISLATION

25 U.S.C. 123: "No money shall be expended from Indian tribal funds without specific authorization by Congress except as follows: * * *."

BUREAU OF INDIAN AFFAIRS

APPROPRIATION--REVOLVING FUND FOR LOANS

ACTIVITY

1. Loan program

APPROPRIATION LANGUAGE

For payment to the revolving fund for loans, for loans as authorized in section 1 of the Act of November 4, 1963, as amended (25 U.S.C. 70n-1).

APPROPRIATION--REVOLVING FUND FOR LOANS (continued)

ACTIVITY	DESCRIPTION OF ACTIVITY
1. Loan program	This fund is used to assist Indians in acquiring livestock, farm, and other equipment and in establishing tribal enterprises. This fund and miscellaneous tribal funds provide the only source of loans for the great majority of Indians who cannot borrow from ordinary commercial credit sources because of their low economic status and lack of bankable security. This fund is used also to make loans to tribes for use by them in obtaining expert assistance for the preparation and trial of claims pending before the Indian Claims Commission.

AUTHORIZING LEGISLATION

25 U.S.C. 470: "There is hereby authorized to be appropriated, * * *, the sum of $20,000,000 to be established as a revolving loan fund * * * (for) loans to Indian chartered corporations * * *."

25 U.S.C. 470a: "Interest or other charges * * * shall be credited to the revolving loan fund * * * and should be available * * * (for) making loans to individual Indians and associations or corporate groups of Indians in Oklahoma * * *."

25 U.S.C. 471: "There is authorized to be appropriated * * * not to exceed $250,000 annually * * * for loans to Indians for payment of tuition and expenses in recognized vocational and trade schools: Provided, That not more than $50,000 of such sum shall be available for loans to Indian students in high schools and colleges * * *."

25 U.S.C. 631-640: "* * * The Secretary of the Interior is authorized and directed to undertake, within the limits of the funds from time to time * * * a program * * * for development of the resources of the Navajo and Hopi Indians * * * establishment of a revolving loan fund * * *."

25 U.S.C. 70n-1: "There is hereby authorized to be appropriated the sum of $1,800,000 for the establishment of a revolving fund from which the Secretary of the Interior may make loans to Indian tribes and bands and to other identifiable groups of American Indians * * * for use by them in obtaining expert assistance, * * * for preparation and trial of claims pending before the Indian Claims Commission."

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans) shall be available for expenses of exhibits; purchase of not to exceed seventy-five passenger motor vehicles (including seventy-two for police-type use which may exceed by $300 each the general purchase price limitation for the current fiscal year) of which forty-six shall be for replacement only, which may be used for the transportation of Indians; advance payments for service (including services which may extend beyond the current fiscal year) under contracts executed pursuant to the Act of June 4, 1936 (25 U.S.C. 452), the Act of August 3, 1956 (70 Stat. 986), and legislation terminating Federal supervision over certain Indian tribes; purchase of ice for official use of employees; and expenses required by continuing or permanent treaty provisions.

AUTHORIZING LEGISLATION

31 U.S.C. 638a(a): "Unless specifically authorized by the appropriation concerned or other law, no appropriation shall be expended to purchase or hire passenger motor vehicles for any branch of the Government * * *."

6 C.G. 201: The Comptroller General ruled that the purchase of ice when necessary from the Government's standpoint is authorized.

25 U.S.C. 452: "The Secretary of the Interior is authorized * * * to enter into a contract or contracts with any State or Territory, or political subdivision thereof * * * for the education, * * *, agricultural assistence, and social welfare, including relief of distress, of Indians * * * and to expend under such contract or contracts, moneys appropriated by Congress for the education, * * *, agricultural assistance, and social welfare, including relief of distress, of Indians * * *."

25 USC 309

70 Stat. 986: "For the purposes of this program (vocational training) the Secretary is authorized to enter into contracts or agreements with any Federal, State, or local governmental agency, or with any private school * * * or with any corporation or association * * *."

Senator ABOUREZK. Can you identify other Federal agencies who request annual appropriations based on the open-end authorization such as that used by the BIA?

Mr. KYL. Almost all of our programs are based on prior authorizations, except for the Office of Saline Water, which makes an annual presentation before the Authorization Committee. Even in the case of the Bureau of Reclamation, there is a basic law which authorizes in much the same process as we have programs for the various steps in the Corps of Engineers project. The Saline Water Office is one exception in the Department of the Interior. The Bureau of Sport Fisheries and Wildlife, and the National Parks Service operate on the same basis.

Senator ABOUREZK. This bill, S. 1786, requires that the Bureau initiate management by objective, which is merely a means of increasing the agency's accountability over its programs and activities. I want to know if you are opposed to this concept?

Mr. KYL. No, sir. It is the basis of the entire reorganization taking place in the BIA now, sir.

Senator ABOUREZK. Can you describe to the committee ways in which the Indian people are provided an opportunity to monitor various Bureau programs, for example, education, social welfare, resource management, economic development, and so forth?

Mr. KYL. At the present time the tribal chiefs' organization does participate in the formation of budgets, also the formation of their own tribal budgets, and I have to say again, sir, this is emphasized at the present time over what it has been in some previous years.

Senator ABOUREZK. Senator McClure.

Senator MCCLURE. Thank you very much, Mr. Chairman. I would like to join in welcoming you again before this committee, Mr. Secretary.

Mr. KYL. Thank you.

Senator MCCLURE. I know from the chairman's experience and my own experience with you on the House Committee, we have been exposed to your dedication to the work which you are performing, in particular, and I am not at all surprised that the Department of the Interior chose you as their official spokesman on this matter this morning because you have very great knowledge of the matters that do approach the Indian programs of the Federal Government. I hesitate to argue with you because I nearly always lose, and I don't intend to argue with you this morning.

Yes; the chairman has asked with respect to termination, and it seems to me you could have more clearly set forth what it is you have in mind with respect to termination. It is not termination of the tribes per se, but termination of the programs. As you know, and as I am sure the committee knows, we have as a Government moved away from the policy of termination of tribal patterns. We have very, very repeatedly underscored that. That is from a policy of termination that may have been in effect 20 years ago or less, but rather self-determination which I am sure you share with the members of this committee. I guess I can go down through the paragraphs of the departmental report, almost sentence by sentence and phrase by phrase that outlines the purposes of S. 1986, in that departmental report which is dated June 11, and

that first page of that report starts out by saying, S. 1786 is based on a finding that Federal Indian programs have not been effective in obtaining their stated goal. I guess all of us would say they have not been as effective as we wish in obtaining their stated goals. Go on down through that entire paragraph, and you have rather aptly summarized the purposes of the bill.

Then you get into the crux of the opposition which is the oversight method which you believe to be unduly burdensome. I guess I would have to not ask a question, perhaps, but simply make a comment, that the failure of oversight is not simply that of the BIA or Department of Interior, the failure of oversight must also be shared by the Congress itself. And if, indeed, there has been a failure, as I believe there has been, to review the accomplishments in the administration of the BIA at various periods in our history, then I think the Congress itself, and certainly this committee, has to share some of that responsibility for not having done the kind of job we should have done at various times in the past.

The annual appropriations bill not only stimulates the bureaucracy to do its job, but stimulates this committee to do its job.

Maybe for that reason, and that reason alone, it would be worthwhile to make certain that this committee went back and looked at these programs. We say so much today about the fact that the executive has invaded the prerogative of the legislative. It is not so much the executive has invaded, it is the fact that the Congress has surrendered those prerogatives to the executive. Within the Congress itself the legislative committee has surrendered its authority to the Appropriations Committee, where great segments of the legislative business of the Congress, the details, are actually set by the Appropriations Committee rather than the legislative committee which, presumably, has more time and knows more about the subject matter than the Subcommittee of the Appropriations Committee. The attempt to reform our procedures internally, and the attempts to reform our procedures between the branches of Government, I believe, demands that we take a look at how we accomplish that. That is what we should do, take a look at both ends of that, to make certain that this committee does its job, and to make certain that the Congress is doing its job, and we don't sit back and say about something the executive does, hey, you ha' done something not right. If you do something right down there, we fail to give you credit for that, which we should do. I am not one of those that thinks this bill or every other single piece of legislation is going to solve all of our problems, I don't think it will. It will have us looking more at the problem, it seems to me.

I am mindful of what you point out, that the annual authorizations might indeed pose a burden. It seems to me we ought to take a look at our past track record and look at this and say, maybe we can try this.

Senator ABOUREZK. I think it is time we took on an additional burden to this legislative branch.

Senator MCCLURE. Let's recognize we have some responsibilities we have not been discharging as well. I am not looking for additional burdens to take on, but I would think we can sharpen our perception

of the problems and their solutions. If there is anything I have said that you would like to quarrel with, go right ahead.

Mr. KYL. I don't think I want to debate this whole matter of Appropriations Committee versus authorizations committee. I am not going to say a sufficient job of oversight has been accomplished, I know it has not. We do feel there are ways of accomplishing that which fall short of this severe change in procedure.

Senator MCCLURE. Are you referring to that point of the aspect of this committee as to what can be done in oversight hearings.

Mr. KYL. Yes, sir. If this committee looks even in perfunctory fashion at the administration of Indian Affairs, it will have to see two or three or four problems which it thinks are major problems, and by concentrating on those matters I think that more can be accomplished than setting up a system whereby every single authorization for Indian Affairs is in jeopardy each year.

Senator MCCLURE. They are, in truth, it is only a question of whether it is a single jeopardy or double jeopardy.

Mr. KYL. In order to do away with a program now authorized there must be an affirmative action by the Congress.

Senator MCCLURE. Doesn't that get down to the fact that many people critical of the BIA have raised, that is, the fact that it goes on year after year after year, and that is because nobody has raised any question. Isn't the continuing appropriation, the continuing authorization, the mode by which that is most effectively perpetuated in Government?

Mr. KYL. I think this would all be true except for the fact that we have a unique relationship with the Indian community which does set it apart from all others that I can contemplate this moment in government. If there were one job that I would like to have this legislative committee perform, and I say this in summary of the things I am trying to express, it would be to actually try to develop some goal in the Indian communities because in spite of all of the swings of policy of the Congress, the administration, there has been one constant factor: The Indian has not changed much, and he is going to change as he wants to change. We are not going to change him. I have spent countless hours this year, in addition to the times that you and I and the chairman have spent in past years legislatively, and my thoughts have primarily been covered with what does the Indian really want. We have always applied something from the outside, and it doesn't work. If we can find an answer to that kind of problem I think we would then be on the way to much greater progress. We are trying to do that with the reorganization, we are trying to express the purpose of the programs. How do we put this application on the ground?

You can have all kinds of charts, all kinds of procedures, but it is the end result with the Indian that really matters.

We have been back and forth on this problem through our history. First we tried to have two lands, one for Indians, one for non-Indians. Then we tried to civilize, quote, unquote. We wanted to deal with the tribe, then with individuals. We were going to terminate, and then we were going to discard that policy of termination and take another view.

Through all this period the only thing constant has been the Indian. Now, facing that situation, what do we do creatively through legislation? I think that is a big enough goal to occupy the time of both legislative committees for a long time to come.

Senator McCLURE. It would seem to me one of the useful steps to be taken would be to have authorizing hearings, when we review where we are going from here, not only to new programs, but to find out whether the programs are operating effectively and efficiently. Yes, it can be called oversight hearings, but they are not broader than the decisions of the chairman and the committee.

I do understand your position and I appreciate the fact that you are here and we will listen very carefully.

Senator ABOUREZK. Senator Bartlett.

Senator BARTLETT. Mr. Chairman, thank you.

Mr. Secretary, you have stated several times that with the reorganization plan that has already been started, that you have established some goals, that you have established internal oversight procedures. Could you describe that, in other words, could you describe the other ways without terminating the—without having annual appropriations bills?

Senator ABOUREZK. Annual hearings, how we could achieve the same goal of oversight.

Mr. KYL. Yes, sir; I can recite some of the things that have been done. Very simply there is the oversight hearing, in which the entire Department is reviewed generally and specifically. I know that past oversight hearings have resulted in the presentation of additional legislative proposals.

I say this committee and the corresponding group in the other body have very frequently held oversight hearings. I believe this committee has some scheduled at this moment. The other body has hearings in the Southwest this week. Before long there will be additional oversight hearings elsewhere in the field.

They have specific goals. In one case the goal is to check on Indian water rights. In another case the goal is the functioning of tribal governments. Under the Reorganization Act we called for the establishment of constitutions and bylaws for Indian tribal governments, and we assumed that meant each tribe would establish a government which as a viable instrument for its own use. We find in many instances that this was not true. A certain tribe might want to use a somewhat theocratic method for determining, say, even the judicial matters. This is not new, it has been done for years.

Senator McCLURE. Mr. Secretary, if this bill passed, became law, I would assume then there would be oversight hearings on the total scope of programs desired by the BIA, is that what you would——

Mr. KYL. I am sure that would be the goal. Whether that goal were achieved or not depends on a number of factors, including time.

Senator McCLURE. If the bill did not become law, then do you think it could be the incentive for oversight hearings that would cover the same ground?

Mr. KYL. I am sure if this committee desired, it could commence hearings at any time there is a day available to go into any individual program as deeply as it wanted to go.

Senator McCLURE. Do you think this would be beneficial for the Bureau and also this committee?

Mr. KYL. Yes, sir. As a matter of fact we have tried to promote such hearings.

Senator McCLURE. You have indicated you have in the reorganization plan established a position for making your accomplishments against stated goals and objectives. Could you describe that and also advise this committee as to how this committee could periodically, yearly or more often, be advised as to the progress toward achieving goals?

Mr. KYL. Yes, sir. First of all I would respond in this fashion. I hope that this committee will seek to have a complete hearing concerning the reorganization which is now underway, and incidentally, we have been ready to do that exercise for a long time this year. There is new philosophy involved. We want you to understand the new direction in which we are heading.

Of course, the whole legislative package which we have presented is also in furtherance of that goal. But we are ready to present that sort of thing to you in detail.

Senator BARTLETT. Have you advised the committee or its chairman that you would like to make such a presentation?

Mr. KYL. At least informally, yes.

Senator ABOUREZK. We have already scheduled hearings for June 25 on this subject.

Senator BARTLETT. Right.

Mr. KYL. This has to be a continuing process. It can't be a once in a while thing. I have to say this too. Mr. Gerard is extremely interested in this procedure and is in contact with the Department more extensively than the committee apparently realizes. He is diligent in his job.

Senator BARTLETT. The other two members of the committee have expressed themselves at least in part to you, Mr. Secretary, and I might do likewise, and then ask for your comments.

I am wondering whether the timing of this bill would be proper in connection with your review and reorganization of the BIA, as to whether it might not be better if it were going to be passed or considered to be passed a year from now, after this committee had an opportunity to see what performance there was in connection with achieving goals that you have advised this committee of.

This committee in the 2 previous years had legislation before it that it has before it now, that was not acted upon and we are having hearings and hearings have been scheduled on these proposals. I wonder how much interference there might be with the consideration of those proposals if this bill passed and we would then be required to go into depth in the whole matter at the same time.

I feel very strongly that BIA does need reorganization and I feel that in many areas it has not been properly responsive to the needs of the Indians, but I also believe that this committee in the last few years was not responsive to the needs either, because of the lack of consideration of legislation before it. I am in a quandary as to whether this bill is well timed and whether it would lead to an improvement. I would appreciate any comments that you have.

Mr. KYL. First of all, in honesty, we would say if this bill passed now the first opportunity you would have for such hearings would be next year, because the appropriations process is underway.

Senator ABOUREZK. If the Senator would yield, I might advise those here interested that on page 3 of the bill the appropriations process does not take effect until fiscal year 1975.

Senator BARTLETT. Mr. Chairman, I was aware of that, my statement is concerned with fiscal 1975.

Mr. KYL. I understand the motivation for this bill is to get a better hold on the legislation. We are trying to do a number of substantive things legislatively. We are trying to beef up the industrialization, the business enterprise. The block grant bill comes to the Hill today. We have the so-called takeover bill or contracting for services. All of these things are designed to give the Indian a much greater control over his own affairs than is now available.

If at the same time we are talking about having an annual review in the Legislative Committee of these programs, I think that it might be natural for some people on the other side of this fence, the Indian people, to say: "Here the Congress is giving these things in one hand, but then saying next year we are going to review the whole thing to see if we are going to stop those programs which are now being instituted for our benefit." They have reason for harboring such reservations because we have been back and forth on this many times.

I believe right now we do have an excellent rapport with the elected leaders of the Indian citizens of this country. They are meeting here and in the field. There is consultation with the tribes. There has been consultation on the block grant situation. Indians are participating. Only a couple of weeks ago those at this table participated in an all morning review of the legislation with very frank questions and answers and suggestions from the Indian leaders.

Senator BARTLETT. Thank you very much.

Senator MCCLURE. You say the legislation which is being set up by the Department is intended to give the Indian greater control over his affairs?

Mr. KYL. Yes, sir.

Senator MCCLURE. Individually or collectively?

Mr. KYL. Both, sir.

Senator MCCLURE. How do you accomplish the balancing act?

Mr. KYL. As we look back again at the history, Senator, you realize we have been unconsistent as to whether we are dealing with Indian tribes or dealing with individual citizens. In a number of ways we are trying to strengthen the tribal organization. We are definitely trying to strengthen that organization so it serves the tribes better. That is an actual tribal situation. On the other hand, in the Financing Act, we deal specifically with individual Indians who want to be entrepreneurs who need assistance in the way of guaranteed loans, insured loans, and insured grants. We are dealing with tribes. We are trying to find means of improving the tribal organization. We had the Reorganization Act and said each tribe could set up its own constitution and bylaws. Having done that, we said, "OK, what is done is done." Only now are we getting to the point of saying how desirable is this tribal organization.

Senator McCLURE. The reason I asked the question is a very obvious one, and you touched on it. Each of the tribes has a different organization, an organization acceptable to them, and that is the way it ought to be. When you come down to strengthening individual rights that sometimes runs in conflict with the cultural and applicable forms adopted by the Indians themselves.

Mr. KYL. Even as in your community and mine.

Senator McCLURE. That is only in a different framework. I am sure you remember the dilemma which confronted the Congress with respect to the guarantees of freedom of religion, among the guarantees of the Pueblos. And that is the reason it seems to me that we have a dilemma in strengthening individual rights, and that is the reason I asked the question with respect to the thrust of the legislation. I think you have indicated the major thrust that the legislation will have.

Mr. KYL. Right now there is a major effort in BIA to improve this whole Indian government proposition. It almost has to be on a case-by-case basis. This is one of the things that makes it difficult, of course. You can't write a law which covers all tribes in the country as specifically as you need to do it.

Senator McCLURE. Mr. Secretary, that is another area. If we had time we would explore it more fully. You keep referring to the Indian, and I think we ought to specify there is a great diversity among Indians, just as there is among other citizens of this country. And it is difficult to legislate for the Indian as though he was one monolithically.

Senator ABOUREZK. Our staff has a question to ask. Before that, Mr. Secretary, I first want to make one further comment.

I think there have been too many Government programs, whether in the BIA or out of the BIA, that have been passed by Congress and then forgotten about, and I think part of that largely resulted in the arbitrary cutoff of some programs, and I might say illegal cutoffs of some programs by the President late last year and early this year. Be that as it may, if Congress is ever to reassume its responsibility as outlined by the Constitution, I think it has to do by whatever means it has available.

I view authorization hearings as possibly the best means of oversight, as Senator McClure said, it is a tool to force us to do the work which we are supposed to be doing anyhow. And in this instance, it will force us to look into programs, not only ensuing programs, but programs passed the year before, ongoing programs that might have been passed earlier. I think we would be greatly remiss if we did not look into the programs that had gone on a little earlier. You and Senator Bartlett talked earlier about the timing not being appropriate for this bill because you are reorganizing the Bureau.

My question is, What better time than next year to look into what happened to your reorganization. I was in the House 2 years and I have been in the Senate 5 months now, and I don't know how many reorganizations the Bureau has gone through in that 2-year period. They have gone through 4 or 5, I imagine, I haven't stopped to count. I don't know if it is a Biblical phrase, but it has all been full of sound and fury and signifies nothing. I think the Bureau ought to be made to justify what it has done and what it is going to do.

I understand you would rather not do it, and I can understand that the Bureau does not want to come up here. But I think in the interest of the Indan people, and in the interest of the constitutional responsibilities of the Congress, it is extremely important that we do something like that.

That is all I have to say. Mr. Gerard has a question.

Mr. GERARD. Mr. Kyl, on page 2 of your report, you cite the Snyder Act. Can you or someone tell the committee what year that act was passed by the Congress?

Mr. KYL. 1921.

Mr. GERARD. Did you consider the general language of the Snyder Act to be specific in the Indian beneficiaries—the language says something to the effect that funds appropriated to the Bureau of Indian Affairs may be expended for the benefit of Indians throughout the United States. It is my understanding that that phrase, "throughout the United States," led to a rather important court case, *Ruiz* v. *Morton*. This is my reason for raising the question. I wonder if Mr. Bruce, who might be a little more familiar with the act, would be willing to comment on the question, whether he feels that the Snyder Act——

Mr. BRUCE. The best response I can give is the response we have made in court, and that is that the Snyder Act must be viewed in the context of the time it was passed, and that is that Indians throughout the United States in 1921 were Indians on the reservation and there would only be a handful of Indians off the reservation. And, of course, "Indians throughout the United States," interpreted literally, does and would have a different meaning, and that is what the plaintiffs are raising in the Supreme Court, that Indians throughout the United States means all Indians regardless of where they are.

Mr. GERARD. If the court holds the previous decision, what impact is that going to have budgetwise?

Mr. BRUCE. I would hate to guess.

Mr. GERARD. Is it double, triple, quadruple?

Mr. BRUCE. At least double.

Senator ABOUREZK. How many Indians live off reservations at this point?

Mr. BRUCE. We say we have a service population of 480,000 at the present time; that is, the population the Bureau serves on the reservation. I believe the latest census figures show approximately 1 million people who declared themselves to be Indians.

Senator ABOUREZK. So that would be 520,000 on the reservation and 480,000 off?

Mr. BRUCE. Very close.

Senator ABOUREZK. Has the Bureau ever done a study as to how much money reaches the reservation and how much stays for administration?

Mr. KYL. Those figures are available.

Senator ABOUREZK. Would you provide those to the committee this week?

Mr. KYL. Yes, sir.

[The information requested follows:]

DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS

ANALYSIS OF OBLIGATIONS—FISCAL YEAR 1972

	Amount	Percent
Program direction:		
Personal services	$35, 537, 396	7. 9
Other	11, 901, 435	2. 6
Direct assistance:		
Personal services	139, 118, 574	30. 9
Other	152, 414, 502	33. 8
Direct funds to Indians	111, 415, 423	24. 8
Total	450, 387, 330	100. 0

Program direction is primarily the administrative, housekeeping, supervisory, and centralized servicing functions performed at the central headquarters and Area Offices of the Bureau. It includes some operating functions which do provide assistance to Indians but are performed centrally because of the efficiencies gained such as: preparation of tribal roles; tribal based information systems; accounting for tribal trust; maintenance of land ownership records; operation of field employment centers; and education curriculum development.

Direct assistance is local operations which provide assistance directly to Indian people. It may be provided through contracts with other organizations such as states, counties or corporations or it may be provided by BIA on-site service operations. It includes functions such as Operations of BIA and Public schools and dormitories, operation of the local law and order program, construction and maintenance of local roads, real estate appraisals, construction, repair, maintenance and operation of community buildings and facilities, maintenance of individual Indian accounting records for leasing and permitting operations and social and rehabilitation services.

Direct funds to Indians are monies provided through grants and contracts to individual Indians, Indian tribes or Indian organizations. It includes scholarship grants, welfare grants, vocational education costs of individuals, housing grants and materials and claims payments. It also includes direct contracts with tribal organizations to conduct various program activities.

OFFICE OF ECONOMIC DEVELOPMENT—ANALYSIS OF 1974 BUDGET ALLOWANCES

Area	Number of tribes Pueblos and rancherias served [1]	Indian population [2]	Acreage [3]					Fiscal year 1974 tentative allocation [5]	Personal services	
			Tribal	Allotted	Total trust	Government-owned [4]	Total		Professional	
									Number	Cost
Aberdeen	15	48,455	2,260,017.26	3,435,903.37	5,695,920.63	170,029.00	5,865,949.72	2,974,569	101	1,748,012
Albuquerque	24	30,385	4,081,228.20	68,286.75	4,149,514.95	13,801.95	4,163,316.90	2,822,640	72	1,363,759
Anadarko	22	23,215	18,797.16	515,021.18	533,818.34	8,331.86	542,150.20	1,469,291	53	945,109
Billings	10	28,572	3,607,161.95	3,395,337.65	7,002,499.60	125,757.01	7,128,256.61	2,955,410	116	1,881,772
Juneau	218	59,634	86,741.00	17,586.08	104,327.08	1,253,009.04	1,357,336.12	1,346,442	25	530,128
Minneapolis	26	20,816	761,035.45	142,375.12	903,410.57	72,241.07	975,651.64	1,118,067	43	728,505
Muskogee	16	61,703	41,725.87	799,125.95	840,851.82	20,484.29	861,336.11	2,005,104	56	1,045,130
Navajo	1	133,487	12,934,363.84	718,360.72	13,652,724.56	324,350.42	13,977,074.98	2,307,209	53	1,035,512
Phoenix	45	50,195	12,832,074.57	287,688.95	13,119,763.52	146,790.15	13,266,553.67	4,330,609	107	2,043,252
Portland	32	26,374	2,712,328.30	1,076,301.45	3,788,629.75	42,628.56	3,831,258.31	5,152,677	178	3,109,739
Sacramento	73	40,955	385,292.02	65,693.67	450,985.69	88.95	451,074.64	840,800	29	602,365
South-eastern	14	9,953	153,101.44	1.00	153,102.44	802.15	153,904.59	671,300	15	251,256
Central office								[6] 6,011,975	96	1,983,834
Total	496	533,744	39,873,867.06	10,521,681.89	50,395,548.95	2,178,314.54	52,573,863.49	34,006,093	944	17,268,973

See footnotes on next page.

OFFICE OF ECONOMIC DEVELOPMENT—ANALYSIS OF 1974 BUDGET ALLOWANCES—Continued

Area	Personal services				Other costs [7]	Projects and contracts	Average funding per tribe [8]	Average funding per Indian [9]	Average funds per tribe after deduction of salary costs	Average funds per Indian after deduction of salary costs
	Nonprofessional		Total							
	Number	Cost	Number	Cost						
Aberdeen	78	$714,317	179	$2,462,329	$512,240		$198,304	$61.39		
Albuquerque	51	518,008	123	1,882,367	940,273		117,610	92.90		
Anadarko	35	348,258	88	1,293,367	115,924	$60,000	66,785	63.29	$2,727.00	$258.00
Billings	62	566,139	178	2,447,911	507,499		295,541	105.44		
Juneau	13	131,778	38	661,906	474,536	385,000	6,176	22.58	1,766.00	646.00
Minneapolis	28	218,324	71	946,829	171,238		43,002	53.71		
Muskogee	26	243,755	82	1,288,885	276,219	440,000	125,319	32.50	27,500.00	713.00
Navajo	70	695,913	123	1,731,425	460,784	[10] 2,090,935	2,307,209	17.28	2,090,985.00	1,566.00
Phoenix	76	774,561	183	2,817,813	1,472,796	40,000	96,235	86.28	889.00	.80
Portland	109	1,116,847	287	4,226,586	901,091	25,000	161,021	195.37	781.00	.95
Sacramento	5	91,861	34	694,226	146,574		11,517	20.53		
South-eastern	16	161,527	31	412,783	216,517	42,950	48,092	67.65	3,000.00	4.21
Central office	46	462,189	142	2,446,023	1,185,017	140,000				
Total	615	6,044,077	1,559	23,312,450	7,380,708	3,222,935	68,561	63.71	6,497.85	6.04

[1] The figure for number of tribes was taken from the pamphlet "American Indians and their Federal Relationship".

[2] Indian population figures were taken from the publication "Estimate of Resident Indian Population and Labor Force Status by State and Reservation; March 1972."

[3] Acreage figures were taken from "1972 Annual Report on Lands Under Jurisdiction of the Bureau of Indian Affairs".

[4] Government owned lands includes purchased lands withdrawn from the public domain for administrative and school sites, irrigation headquarters, pumping stations, and lands reserved from the public domain pending legislation.

[5] The allocation of funds to each area is less amounts deducted for activity accounts 1299 (administrative service) and 1898 (plant management services).

[6] Does not include $90,000 allocated for Alaska Office located in Washington, D.C.

[7] The column headed "other costs" includes travel, supplies, equipment, etc.

[8] The average funds per tribe per area is obtained by dividing the area allocation of funds by the number of tribes within the particular area.

[9] The average funds per Indian per area is obtained by dividing the area allocation of funds by the total Indian population for reservations within the particular area.

[10] For purposes of this report the $1,726,000 in range funds were allocated to Hopi-Navajo boundary dispute. $1,156,000 of the amount may or may not be used for Navajo-Hopi.

Senator ABOUREZK. I have no further questions. I want to thank you very much for your comments.

Mr. KYL. Thank you, Mr. Chairman.

Senator ABOUREZK. The next panel of witnesses, representatives of the Department of Health, Education, and Welfare, led by John S. Zapp, Deputy Assistant Secretary for Health Legislation. He is accompanied by Emery Johnson and other members of the staff.

I would appreciate it, Mr. Zapp, if you would introduce the members of your panel.

STATEMENT OF DR. JOHN S. ZAPP, DEPUTY ASSISTANT SECRETARY FOR HEALTH LEGISLATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, WASHINGTON, D.C.; ACCOMPANIED BY DR. EMERY JOHNSON, DIRECTOR OF INDIAN HEALTH SERVICES; CHARLES COOKE, JR., DIRECTOR OF THE OFFICE OF SPECIAL CONCERNS; AND FRANK E. SAMUEL, DEPUTY ASSISTANT SECRETARY FOR CONGRESSIONAL LIAISON

Mr. ZAPP. Thank you, Mr. Chairman, you already recognized Mr. Johnson, on my right, and on my left, Frank Samuel, and on his left, Charles Cooke, Director of the Office of Special Concerns of HEW.

Mr. Chairman, I want to thank you for the opportunity to appear here today to discuss our views on Senate bill S. 1786, the National Indian Goals and Progress Act.

I would like to begin my comments by addressing myself to the purposes of the bill as outlined in section 3. According to this section, the bill would require an annual review of the effectiveness of all major Federal programs and services for the benefit of Indians; would require the establishment of annual program goals and priorities; and would attempt to insure that financial and other resources are made available to achieve the goals.

Our reading of the bill is that its only effect on HEW programs would relate to the Indian Health Service. Therefore, I should like to discuss the purposes of the act from the standpoint of IHS activity.

As I am sure you are aware, the Director of the Indian Health Service annually appears before the Appropriations Committee as a part of the appropriations process. In preparation for that appearance, we review IHS program effectiveness and provide detailed information to the Congress concerning all aspects of the IHS program, including data related to the effectiveness and efficiency of the program in meeting the needs of native Americans and fulfilling Federal responsibilities.

Additionally, considering annual program goals and services, the Indian Health Service currently has in place a planning and evaluation process through which goals and objectives for the Indian Health Service programs are determined and assessed. A part of this process includes the continual monitoring and evaluation of program performance to assure that these goals and objectives are being met. This process is not a unilateral one, but intimately involves the Indian people at every level of operation. Specifically, each service unit develops, in concert with the Indian people, an annual work plan with objectives

and resources required, as well as a delineation of unmet needs. Moreover, each area office and Indian Health Service headquarters utilizes the Department of Health, Education, and Welfare operational planning system as a method of setting annual goals and objectives and assuring that progress toward their accomplishment is monitored.

As the Under Secretary pointed out before you on June 1, 1973, the insurance of adequate resources is more a question of appropriations than authorization. Special authorizing legislation will not deal with the issue of money; that issue is dealt with only through the appropriations process. And, in the process of developing the President's budget, the Department is consulted to insure that proper financial and other resources are provided to meet the needs of native Americans. Thus, it is our view that the Department is already acting in ways supportive of the purposes of this act.

We agreed that congressional oversight on these matters is useful. However, it is our view that the stated purposes of this bill can be accomplished through the mechanisms already available to the subcommittee for oversight of programs of the Indian Health Service. Therefore, we believe that S. 1786 is simply not needed to accomplish your objective.

On the other hand, new problems would arise were the bill to become law. The operation and optimum management of health services delivery systems is dependent, in part, on the timely availability of resources. The availability of these resources may be adversely affected by the delays, however brief and infrequent, caused by the process of obtaining annual authorizations. The high level of confidence which native Americans generally have in the Indian Health Service could be seriously eroded by the uncertainties introduced by an annual authorization process. Additionally, the same uncertainties could impair the ability of the agency to recruit and retain high-quality staff.

Finally, despite the disclaimer in section 5 of the bill, it is likely that passage of this measure would raise new fears of termination among native Americans. The bill could be interpreted as a signal to Indians that the longstanding Federal responsibility toward Indians is about to become a short-term arrangement, subject to annual review and renewal.

In conclusion, Mr. Chairman, we believe enactment of S. 1786 is not needed to obtain congressional objectives, that it could impair the delivery of services by the Indian Health Service, and will not enhance the attainment of self-determination for native Americans. For these reasons, we recommend that this bill not be enacted.

Mr. Chairman, my colleagues and I will be pleased to try to respond to any questions you or other members of the subcommittee may have.

Senator ABOUREZK. Thank you, Dr. Zapp.

Before I ask questions of you, I would like to announce the presence of the South Dakota Farmers Union group, a bunch of my constituents, who just came into the room. We want to welcome all of you to the committee room today, as well as those of you who are not lucky enough to be from South Dakota in the audience.

I notice in your testimony you say passage of this bill will raise new fears of termination among American Indians. That is the second time I have heard that fear discussed. I am wondering if this is not so much

a fear of the Indian people, but some specter, or some strawman that has been raised by the Department of Interior to defeat this legislation.

I know that the last 150 years, if my reading of Indian history is correct, that the way in which the Indian people have been kept weak in bureaucracies, is through factionalism and bureaucracy among the Indian people. I personally see this as another attempt to do that, maintain the strength of these bureaucracies, and in my opinion it is the most pernicious way to do it. I think it is wrong, and any attempt to make that argument among the Indian people will be opposed strenuously.

I understand you want to oppose this bill with all of the resources at your command; that is fine, you are entitled to do that. I want to go on public record today as saying I think you are doing it the wrong way.

When I stopped practicing law a few years ago—as you know when people get out of law school they don't know much of anything. In an effort to learn something about it, I occasionally guided myself by what the opposition wanted me to do. I once had a lawyer offer to pay the expenses of a witness, to fly the witness from Texas to South Dakota to testify at a deposition. I really don't know why I shouldn't have done that, but I refused the offer on the ground my opponent wanted to do it. And I must make that comment on this legislation, if the administration opposes it, it must be a good bill.

Speaking of Indian Health Service being responsive to legislative oversight processes, I have a question then to direct toward that specific comment.

On June 1, I asked Under Secretary Frank Carlucci to provide this committee with a full report of the administration's plans to utilize the $6.2 million which was added by the 93d Congress for Indian health programs, which was impounded and frozen by the administration. I wonder, Dr. Zapp, can you provide the committee now with the reports I requested on June 1?

Dr. ZAPP. Yes; I read the transcript, Mr. Secretary, and I think you and the Under Secretary agreed on a 2-week limit on the report on the revisions. I discussed this with the Under Secretary last night and his report will be up prior to the end of 2 weeks and it is not one that would be unfavorable. I don't have the report here, but I did talk to him and I am familiar with what would be contained in the report and I am sure it will not displease the chairman.

Senator ABOUREZK. In other words, you are going to release the impounded money?

Dr. ZAPP. I would prefer to have the report come to you from the Under Secretary as requested in the June 1 hearing.

Senator ABOUREZK. We thank you, Dr. Zapp, the Congress appropriated funds in fiscal year 1973 for 12 high priority Indian health programs. Will funds for any of these programs be made available for expenditure by the Indian Health Services and if so would you please identify these programs and the amount of money involved?

Dr. ZAPP. My understanding, Mr. Chairman, is that none of them have.

Senator ABOUREZK. Not any of the 12, is that correct?

Dr. ZAPP. I think those are the same funds, Mr. Chairman, we discussed a minute ago, the rescission funds, $6.2 million.

Senator ABOUREZK. If you released that impounded money, you are saying the funds for those programs then will be made available.

Dr. ZAPP. Frankly, Mr. Chairman, I am not familiar in detail with exactly how the funds would be obligated. That would have to be subject to the conditions of the memorandum Mr. Carlucci has written to you and the members of the subcommittee. The letter that will be forwarded to you.

Senator ABOUREZK. What this committee would be interested in, Dr. Zapp, is that that money goes toward Indian programs, not going toward taking up for salary increases and inflation. We want to make certain that money goes for the purposes for which it was intended.

With regard to the legislation in question today, I wonder if you would identify the authorizations used by the Indian Health Service for its appropriations, specifically the purpose of the authorization, and the ceiling on funds, if any, and the date of enactment of those bills?

Dr. ZAPP. I think I will have to supply that information for the record, Mr. Chairman.

Senator ABOUREZK. All right.

[The information referred to above follows:]

THE UNDER SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., June 14, 1973.

HON. JAMES ABOUREZK,
Chairman, Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR ABOUREZK: I am pleased to respond to the request you made at the hearing on June 1 and to inform you that I have authorized the Indian Health Service of the Department of Health, Education, and Welfare to obligate the full amount of the 1973 appropriation for Indian Health Services including the amount previously requested for rescission. In accordance with this authorization, it is the plan of the Department to carry out as fully as possible the 12 projects and activities for which the Congress added funds in the 1973 appropriation.

Based on our review of the proposed activities, and taking into consideration the fact that we near the close of the fiscal year, we plan to carry out fully the following programs:

Contract Medical Care.
Three Pilot Urban Indian Health Projects.
Expansion of programs administered by the California Rural Indian Health Board.
50 Additional Community Health Representatives.
Leasing of Health Clinics in Alaskan Villages.
Health Care Communications in Alaska.

We have reviewed the remaining proposed activities and are making plans to undertake them as fully as possible, again in light of the time of the fiscal year, and also with a view to avoiding commitments for activities in fiscal year 1974 which are not now included in the President's budget. The selection of activities must also take into account the limits on the employment of Federal staff under which the Department is operating. The implementation of these activities is dependent upon the completion of action on the FY 1973 Second Supplemental Appropriation bill which would provide the funds needed for the increased pay cost for the Indian Health Service. On this basis, we believe that we can proceed with some aspects of all of the remaining programs:

Additional treatment of middle ear disease (Otitis Media).
Additional Eye Care.
Additional Dental Services: Alaska and Aberdeen and Billings Areas.

Mental Health Program.
Additional Ambulatory Care.
Additional Services at Belcourt, North Dakota.

We are proceeding with the implementation of these decisions as rapidly as possible.

Sincerely yours,

FRANK C. CARLUCCI,
Under Secretary.

Senator ABOUREZK. Do the major operating agencies in HEW operate under open-ended authorizations for appropriations such as those used by the Indian Health Service?

Dr. ZAPP. Mr. Chairman, if I may go to a point of terminology, we have programs in effect that have open authorizations in HEW that have no ceiling. As an example, certain programs that the authorization legislation says, such sums as may be necessary. Whatever sums were appropriated by Congress and signed into law.

We have other open-ended programs, for example, one Federal matching program, medicaid. Our Department with over 300 programs, has a number of both of them. I am unaware of anything within the Department, however, where we have an authorization of that type, an appropriation process of that type with an annual authorization such as this bill is suggesting.

Senator ABOUREZK. You don't know of any program in HEW that has an authorization similar to this legislation?

Dr. ZAPP. No; I don't, Mr. Chairman.

Senator ABOUREZK. Dr. Zapp, you are in opposition to S. 1786. What suggestions can you offer to the committee that would tend to increase the Indian Health Services accountability with respect to the use of public money?

Dr. ZAPP. Mr. Chairman, I think there are a number, and if I might say not in a—I think one of the things that will probably do more for that is the presence of yourself and Senator McClure and Senator Bartlett on the committee. And that and the authority the subcommittee currently has in requiring the HEW to come before the committee for oversight review, would do more than this legislation would do.

Our Department has many, many oversight committees, which has our people up two or three times a month, and they develop far more legislation than any single year authorization would do, in my judgment, and I think that is probably the single factor that will bring about more responsiveness than any other single thing.

Senator ABOUREZK. I fail to understand the argument by both you and Secretary Kyl, that somehow annual authorization hearings won't do as much good as what has been going on.

Dr. ZAPP. First of all, Mr. Chairman, I don't think either of us will say that what has been going on has been, with the authorization that the subcommittee has that will do more than just the bill, if the bill was followed as a matter of form requiring the Bureau of Indian Affairs and Indian Health Services to come up once a year.

Senator ABOUREZK. Dr. Zapp, you know we don't have much authorization without an authorization bill.

Dr. ZAPP. Mr. Chairman, I would differ with you, handling the legislation in HEW, oversight carries a great deal of leverage and puts

a great deal of pressure on the programs for their performance and give public pressure and visibility as to whether what they are doing is right or wrong.

Senator ABOUREZK. It is your argument that oversight hearings will provide a great deal of leverage?

Dr. ZAPP. I think they provide leverage. Mr. Chairman, from the standpoint they give visibility to the issues. First of all, by that I mean not just the visibility that occurs between the Department and the committee when they appear, but they give visibility through the media and other mechanisms. I think it gives the committee and other people a chance to get a better understanding of the performance of the two agencies you are talking about.

Senator ABOUREZK. Wouldn't it follow we would have a great deal more leverage if we had the oversight hearings as we saw fit, plus annual authorization hearing?

Dr. ZAPP. I would like to state, Mr. Chairman, why I think Mr. Kyl and myself are both coming before the committee and saying we think it is——

Senator ABOUREZK. Because the OMB told you to.

Dr. ZAPP. No. Not in this particular case, Mr. Chairman, but I can assure you, I sincerely feel in dealing with the legislation that I do in HEW, that this is not a process which will achieve the goal that you want when you check it against the risks we think will occur. We have a lot of programs that are justified on the fact that we have 2- or 3-year authorization or continuing authorization. We want to signal to the committee that we have a continued Federal responsibility in this role. We have gone back to the Congress and asked for permanent authorization for some programs that were on 2- or 3-year operations. The ones where we have asked for permanent authorization, it is a matter that we don't feel that the communities that we are dealing with should have to look every 2 or 3 years to see what kind of changes would occur or would be proposed. I think it is a valid argument from the standpoint of the executive branch.

Senator ABOUREZK. What steps, if any, have been taken by the Indian Health Service to provide the Indian people with an opportunity to monitor your program effort?

Dr. ZAPP. I would like to have Emery Johnson speak to that, Mr. Chairman.

Dr. JOHNSON. Mr. Chairman, the Indian health program has perhaps a peculiar approach to the planning and evaluation of implementing the program, and that is that we have attempted over the last 4 years to reverse the process from one of Secretary to the Program Director to the field and finally to reservations, the way it has always been, and one in which the basic planning and evaluation of the program was done at the reservation level. We have done this, first of all, by delegating essentially all operating authorities to the field. We retained very limited operating authority in our central offices. In many instances the delegating authority has been redelegated down to the reservation level. In most instances, tribes have developed health boards, health committees, health authorities, again in their own way for their own specific purposes, who, together with the professional staff, attempt to develop an assessment of their needs, a development

of the plans to meet those needs, and attempt to put together the most reasonable package of programs they can have to meet those needs and then, of course, they identify the unmet needs.

I am sure that the committee and I certainly know the Appropriations Committee is quite familiar with the package of unmet needs that the tribal leadership will bring to you.

The reservation programs then go to an area where again we attempt to consolidate these programs into some reasonable number of plans or activities, because if you look at the definite things, each of whom have perceived the world in somewhat different shape, when you got to it our position of presenting it to the Congress would be unintelligible. There are area health boards in each area, made up by the tribes being served, and they again play the same role of helping put together the area's position on programs, setting priorities——

Senator ABOUREZK. Excuse me, Dr. Johnson. The health boards are elected by the Indian people themselves?

Dr. JOHNSON. It varies considerably, Mr. Chairman. In some they are appointed by the tribe, in some they are elected directly out of the tribe. Sometimes the tribe has a general election to elect the members of the health board.

Senator ABOUREZK. Is that a new procedure in the Indian Health Service?

Dr. JOHNSON. It has been a new one developing over a number of years.

Senator ABOUREZK. I know in Rapid City before you took over as Director there was a major struggle that took place over the appointment of the director of the hospital of the Indian Health Board and they had to have a few protest marches and so on, law suits, before that thing was changed, so the Indian people themselves could elect their advisory board.

Dr. JOHNSON. That was true, Mr. Chairman, and I think you will find the problem was somewhat different in that that was not an elected tribal government to which you could address yourself. Basically our position is that we relate specifically to the elected tribal government. If a health board is to be established on the Rosebud, for example, it is up to the tribal council to determine what the health board is to be, if there is to be one. Rapid City was our first venture into a nontribal government issue, and it had its problems.

Senator ABOUREZK. It is working rather well now, isn't it?

Dr. JOHNSON. In our opinion there are certain elements within the community that petition me regulary to dissolve the regular one—the area health boards would be selected by representatives from each of the reservation health boards and the national health boards are divided usually about the chairman of each of the area health boards. I have nothing to say about who is elected or selected or how they are selected in any health board. This is a very, very strange kind of system. There is nothing that says you can't do it, so we have proceeded, and in my opinion it has been a very, very effective and valuable assistance to us.

We have gone a step further, Mr. Chairman, in this last couple of years, going out to do the program evaluation. It seems to us it would

be a useful change to go around and have the Indian community provide the evaluation.

Senator ABOUREZK. The important thing in this dialog, Dr. Johnson, is whether or not the Government responds to the evaluation, whether the administration or BIA or Indian Health Services. It is my point that I think the Congress can much easier respond to the criticism than can the agency that is being criticized.

Thank you very much, I would like Senator Bartlett, the ranking minority member of the subcommittee, to proceed now, if you will.

Senator BARTLETT. Thank you, Mr. Chairman.

Dr. Zapp, thank you for being here today. On page 3, second line of the first new paragraph, it starts as the Under Secretary pointed out on June 1, 1973, the insurance of adequate resources is more a question of appropriations more than authorizations. Does this mean that you feel that the authorization as to how the money is spent is not as important as the money itself?

Dr. ZAPP. No, I don't think that is the question at all, Senator. I think the statement the Under Secretary is making and that I would make is simply having authorization does not assure the appropriations or expenditure or outlay of any funds. In our Department as an example, it seems as though the Department as a whole, in the 4 years I have been there, and the health components have doubled in the 4 years, in expenditures we have a gigantic appropriation gap. I think that is the point he was making, that simply have an authorization does not mature anything at all, it is still up to the members of the public and executive branch and the members of the subcommittees to go before the Appropriations Committee and evaluate the programs that Dr. Johnson was referring to.

Senator ABOUREZK. Are there any areas in the authorization bill where you believe there could be improvements made, in your present authorization?

Dr. ZAPP. That is an area, Senator, where I wouldn't have any personal recommendations, because of the authorization legislation, which is somethnig that we are going to supply the exact language as requested by the chairman, for the record. I don't think it is a matter of restriction on authorizing the language, as far as the Indian Health Services is concerned. I think the language is quite broad. It is a matter of personnel and priorities and dollars and effective use of them.

I think you have, of course, something else entirely different which was the subject of your June 1 hearing, I wouldn't want to pass that up on Indian self-determination. You are talking about the authority to properly use the funds we have now. I think the Indian self-determination bills are speaking of themselves——

Senator BARTLETT. Which would you prefer, Senate bill 1786, which requires annual appropriations bills to be passed, or on a consideration of the present law, a study of the present law for any improvements that might be made?

Dr. ZAPP. I would think it would be the latter of the two, the study of the current law and the bills that were before the committee that were discussed in the earlier part of the month. I don't think the chairman and some of the committee members' objectives can be met by this bill.

Senator BARTLETT. That is all of the questions. I would like to have the staff ask the same question that I just asked of Dr. Zapp of Secretary Kyl; namely, would he favor this bill, Senate bill 1786, or would be favor a review of the Snyder Act, the existing statutes, for any improvements that might be made. And this would be for the record.

[Subsequent to the hearing Mr. Kyl submitted the following:]

Senator Bartlett requested for the record our views as to whether we would favor S. 1786 or "a review of the Snyder Act, the existing statutes, for any improvements that might be made."

As we indicated in our discussion of the case of Ruiz v. Morton, if it is finally determined that the present language of the Snyder Act requires the provision of services and assistance from funds authorized under that Act to Indians "throughout the United States" without regard to their residing on or near reservation or trust lands, some action by the Congress will be necessary because of the substantial increase in our requirement for funds which would be necessary to avoid a decrease in the level of services and assistance to those Indians which we are currently serving. In any event we would be pleased to cooperate with the Committee in the review of the current authorization statutes should they wish to undertake such a review. The Committee may wish to consider the authorization statutes in connection with the oversight hearings which it has indicated that it will hold concerning the programs of the Bureau of Indian Affairs.

Senator BARTLETT [presiding]. We have no further questions, Dr. Zapp. Thank you very much. We appreciate your coming here.

Dr. ZAPP. Thank you.

Senator BARTLETT. Mr. Ernest Stevens and Mr. Lee Cook, I want to thank you gentlemen for appearing before this committee. You may read your statements or you can highlight them. Proceed in any way you like. I have it down as Mr. Cook being first. Could you introduce yourselves.

STATEMENT OF LEE COOK, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS, DIRECTOR OF INDIAN EDUCATION FOR MINNEAPOLIS PUBLIC SCHOOLS

Mr. COOK. Mr. Chairman, members of the committee, my name is Lee Cook. I am president of the National Congress of American Indians and am presently employed as director of Indian education for the Minneapolis public schools. From July 1970 to November 1971 I was Acting Director of the Office of Economic Development for the Bureau of Indian Affairs. It is not my intent to provide you with my employment history, but I believe my experience in the BIA is relevant to the testimony that I am about to provide for your proposed bill S. 1786, the National Indian Goals and Progress Act.

I am delighted to testify before your committee and appreciative of your invitation.

Mr. Chairman, you are acquainted with my feelings and thinking that the delivery of services and funds, the protection of Indian lands, waters, and natural resources, and the economic development of Indian communities is definitely in need of a radical departure from the past.

One of the original members of the old "New Team" of the BIA used the following analogy to express the situation we found ourselves in then and now.

He said that the BIA is like an old car that Indians have been riding around in for years driven by government officials. Now, he said, they are saying, "look, Indian, you have been riding in the back seat long enough, and now we think it's time for you to get up front and drive yourself." So the Indian gets up front smiling, sits in the old wornout driver's seat, grabs the loose steering wheel, then suspiciously gets back out. He kicks the old bald tires, recognizes the condemned body, and realizes what's happening. He's just been given an old, wornout vehicle that travels at a snail's pace, gets very poor mileage, and is simply totally obsolete. Even if it was restored to its original ship shape condition, it is not an antique that Indian country needs, but a super jet to meet the new pace needed to catch up and overcome the inequities and atrocities of the old system.

Mr. Chairman, I believe your proposed bill is a step in the right direction, and maybe as much a departure as the Congress will allow. But I don't believe it really goes far enough. I see it somewhat like the analogy implies—as an attempt to speed up the pace and improve the mileage of a couple of obsolete machines.

You see there are some fundamental problems inherent in the present structure of the BIA. Your proposed bill addresses itself to the programs as presently postures, and their beneficiaries, but it overlooks the more fundamental shortcoming of the whole structure—the budget structure itself. The BIA's budget as presently postured in form and content neither reflects the organizational structure of the BIA nor the priorities of Indian country.

It's kind of like having an old foundation, and different houses built on it that never quite fit the foundation. That's essentially been the case with all the reorganizations that have taken place in the past.

If you take the Alaska funds out of the budget of the BIA, the remainder of the budget breaks down pretty much as: 50 percent for educational programs, 30 percent for welfare related assistance, 15 percent for natural resources and trust services, and 5 percent miscellaneous.

The systematic erosion of dilution of the primary responsibilities of the BIA as trustees, as reflected in its present 15 percent of the budget, I contend was not just a matter of benign neglect of those interests. I see it as part and parcel of what I consider a systematic strangulation of beneficial Indian programs and a demeaning of the fiduciary responsibilities of the BIA.

John Collier, one of our most progressive Commissioners to date, wrote in his book, the Indians of the Americas, "The Indian Reorganization Act has withstood every form of attack, except the avenue of appropriations." He stated that when Congress appropriates funds it also established the law and policy governing the use of those funds.

The implication of his comments are more clear, Mr. Chairman, when one recognizes the basic theorem that the BIA has historically and traditionally been used to carry out policy of the Department of the Interior and not policy in the best interest of Indian country.

The policy of the Department of the Interior is very clear in the breakdown of the present budget, because it certainly doesn't reflect

the priorities of Indian country. In not saying that natural resources and the attendant trust services ought to be increased while educational programs and welfare assistance ought to be decreased, but certainly a budget reflective of Indian priorities would suggest a better balance.

Mr. Chairman, I also think an inherent shortcoming in your legislation, although it may imply, is just where does the Indian get involved in the review and evaluation of these programs. What the Departments say and do is one thing, and what Indians say and want done have been quite another thing. The Secretary has been required by law for many years to review budget matters with the tribes but never has, and I'd like to see some stronger language assuring their involvement from one end to another.

Senator ABOUREZK. I wonder if I might interrupt you, Mr. Cook. I think you are right in that the Indian people have seldom had a hand in what goes on in their budgetary process. The Appropriations Committee, as you know, is extremely loaded down with work and does not have the time to dig into the programs and how effective they have been, or how effective they might be. With this legislation what I have tried to do is each year as the authorization process gets underway in January of each year, the people, Indian people from around the country, I would envision them commenting to this committee and the House committee as well upon previous year's programs at about the same time that the administration is commenting on them and asking for the authorization, and I think and fully agree, as a matter of fact, that the only way to really tell if the programs have been working is for the Indian people themselves to let us know when they have been working. I envision this as a part of our authorization process.

Mr. COOK. It was not clear to me where they got into the process. Those, I guess, are my two major ones. The structure of your budget, its need to be reviewed; second, I think a stronger explanation of the involvement of Indian country; and, last, I am a little skeptical about the frequency, essentially the oversight hearings on the annual basis.

Having some familiarity with the budget process and the mechanics of it, maybe every other year or every 3 years might be a more reasonable time frame to measure, and it would kind of fit in——

Senator ABOUREZK. You mean on a 2-year basis. Don't they have to come to the Appropriation Committee every year for their money?

Mr. COOK. They come every year, but it is not an unreasonable kind of way to set priorities. It gives us an opportunity if in fact you are interested in getting Indian input into the budget process, it gives you some leeway. My experience has been that we attempted to provide the materials and information to the tribes so that initially before we got them out to the Bureau of Indian Affairs personally, with the idea being to really get them interested in tribes and getting them in the budget process. So that when the priorities expressed by them reached Washington, would be reflected in our negotiations within the Department of the Interior. Normally you operate within a not very large budget allowance, so that the possibility of change is not all that drastic from 1 year to another. I think we have

made some significant changes in the last couple of years, changed the amounts of money, not the budget structure itself.

Mr. Chairman, you have heard the tribes time and again express the need for water inventories, boundary surveys, legal assistance and natural resource programs, and you have asked time and again why these funds are not requested in the budget of the Bureau of Indian Affairs or requested by the Department of the Interior when they go before Congress.

Mr. Chairman, it is my opinion that the often-mentioned conflict of interest between the Department of Justice and the Department of the Interior that lends itself to the destruction of our Indian communities and their reservations is accompanied by a conflict of interest between the Department of Interior working in concert with the Bureau of the Budget, now called the Office of Management and Budget, in what I have termed the "fiscal annihilation of Indians" with the very same intent.

Based on my review of the budget of the Bureau of Indian Affairs over a number of previous years, there is clearly an unwritten policy between the Department of the Interior and the Bureau of the Budget that tends to follow the following three criteria:

1. Do not request or permit funding that will improve or develop reservations.
2. Push programs to get Indians off the reservations.
3. Give them some training so that they can qualify for an off-reservation job.

The Commissioner is even asked if he is sure he is asking enough for relocation and related job training programs.

Mr. Chairman, I submit that these criteria may suggest a form of subtle termination to you and to many tribal representatives present here, but to me it represents an effective de facto form of termination.

Although Interior is the natural resources department, BIA natural resources are not measured the same as other departmental programs. Within a prescribed inadequate total allowance, natural resources conservation and development is forced to compete with seats for schoolchildren. Priority for funding within developmental activities are then subjected to a job and income analysis measuring immediate results. Even if legitimate figures are used for favorite programs such as irrigation, construction requiring long-term capital investment are shorted. You can imagine where property preservation and protection activities fall on that scale.

Using the guise of cost-benefit ratio in terms of outputs in human resources as opposed to inputs into natural resources, the Department of the Interior and the Bureau of the Budget can readily justify their rationale for not requesting adequate funding for property management, for irrigation construction, for range improvement, and erosion control, for reforestation, and the necessary technical and legal assistance to promote natural resource conservation and development programs for the reservations.

Whatever legal guise the Department lacks in its intent to destroy the Indian communities and their reservations, they attempt to accomplish through the exploitation of the reservations natural resources, so as to force Indians to move off the reservations. They will

have destroyed every means of survival that their natural resources may have provided, rather than to see that they are protected and developed to provide the necessary base economy to support any kind of viable community of people.

Still another form of underhanded Indian termination is practiced by the Bureau of Indian Affairs. For a number of reasons many Indians desire to sell their individually owned allotments. Most tribes would like to purchase many of these allotments to maintain Indian ownership. They have been effectively prevented from such action by lack of funds and the lack of funding in the Bureau's revolving loan program, and the Department's inaction in supporting legislation like the presently postured Indian Financing Act. Thus, alienation of Indian land continues and the termination-oriented land manipulators are happy at the further reduction in the Indian land estate.

The conspiracy between the Department of the Interior and the Bureau of the Budget is easy to understand recognizing their clear intent to destroy the Indian community and its reservation. In view of this fact, it is easy to understand why the Department will not request moneys for irrigation construction so that Indians can use the water they have the right to use, so that they can reforest where their timberlands have been destroyed, where they can improve their grazing and agricultural lands, or where they could expand their reservation land base if adequate funding were available.

As I mentioned earlier, it is abundantly clear that the Bureau of Indian Affairs has been used to carry out policy of the Department of the Interior as opposed to policy in the best interest of Indians. Recognizing this fact, it is easy to understand why the priority in real property management has been in sales and in leasing, it is easy to understand why the priority in the Bureau's forestry program has been in sales, administration, and management, it is easy to understand why there has never been more loan funds available to Indian tribes to purchase individual allotted lands on their reservations, it is easy to understand the withholding of funds for Indian irrigation systems and conditioning them on the construction of bigger reclamation and irrigation projects for non-Indian communities and further conditioning them on sharing their water with non-Indian users.

Mr. Chairman, you may wonder where the Department of the Interior has been in all of this and why they don't request funds for promoting and protecting Indian water, land, and natural resources. I submit to you they know full well what they are doing, but they have never been as visable to the Indian community, to the American public, and to the Congress of the United States. They are intent on destroying Indian reservations and forcing the Indian communities into the polluted mainstream of American life to become full participating members in that economic way of life.

Then the prolonged agony that they have been imposing on Indian people for centuries will be fait accompli—they will be totally and completely assimilated and their termination as a people and as a culture, and as a liability in their mind to the Federal Government, will be accomplished.

Mr. Chairman, in introducing your proposed legislation, you said, "Our Government is faced with a constitutional crisis of untold pro-

portions as a result of the usurpation of power over the years by the executive branch." I contend that the "usurpation of power" has resulted from the systematic manipulation of the goodwill of Congress to the benefit of the respective bureaucracies and at the expense of the constituencies they are supposed to serve. This has been the pattern of the Department of the Interior in using the BIA to carry out policy in its own interest—that generally being antipodal to the interests of Indian people.

Your proposed legislation will provide an effective check to this criminal manipulation of Congress and the gross malfeasance, the BIA and the Department of the Interior is acting as trustee.

Senator ABOUREZK. I wonder if a part of that hasn't been brought about by a lack of accountability by——

Mr. COOK. I think one of the items that I have alluded to, and also commend you on recognizing, I think, the Congress has to assume its constitutional role for establishing a national policy. I think Congress also has the additional legislation to make sure that while they have legislative promise, that the executive branch carries the intended purpose out that you intended in the first place. That, in my mind, is an important meaning of your legislation that I strongly support. I have seen some programs across the board and I have been involved with a number of programs, that in every case really quashed in the implementation of programs and the operation of them as reflected what Congress intended in the first place.

Your proposed legislation is the beginning of a new direction that I have been strongly advocating—that being for Congress to assume its constitutional role and authority to establish the national policy governing Federal-Indian relationship and programs, and bring to a screeching halt the present disastrous policy direction of this administration.

Your proposed legislation also has an ingredient that I oftentimes find missing in Federal programs—that being that Congress has the responsibility, in addition to legislating programs, to make sure they are carried out with the intent and purpose they were intended to serve in the first place. So many times, Mr. Chairman, good legislation is aborted by the executive branch to serve its own interests or vice versa.

Mr. Chairman, I am pleased with your very apparent progressive approach and interest in Indian programs. I welcome the intent of your proposed National Indian Goals and Progress Act, and I hope that once this bill is passed, you will pursue one even more radical departure, and get us that superjet I alluded to in the beginning of my statement. Thank you.

Senator ABOUREZK. Thank you, Mr. Cook. I hope to get some questions after Mr. Stevens finishes.

The next witness is Mr. Ernest Stevens. We will be pleased to hear your testimony at this time.

STATEMENT OF ERNEST L. STEVENS, AMERICAN INDIAN CONSULTANTS, INC., SCOTTSDALE, ARIZ.

Mr. STEVENS. My name is Ernest L. Stevens, and I am an Oneida Indian. I am presently employed by American Indian Consultants,

Inc., of Scottsdale, Ariz. As the former Director of Economic Development and Community Services of the Bureau of Indian Affairs, I have had ample time to observe and participate in the budget processes of the Federal Government, as it relates to the American Indians. I feel that my experiences may bring some light on the considerations pertaining to S. 1786, the National Indian Goals and Progress Act.

While great efforts are made by Indian advocates, seemingly in the face of great resistance on the part of special interests, the Indian's search for justice remains a paradox. There is a great amount being said about the need for new laws. Yet there are more than adequate laws, and administrative relief related to existing law, to solve the overwhelming majority of Indian grievances. The law is on our side, yet for some curious inexplicable reason it does not work for us, and those administrators who are charged with the conduct of our affairs have chosen not to interpret those laws in our behalf.

The Constitution recognizes Indians as a special people, who are to be treated in a special way through the Congress of the United States. Article I of the Constitution empowers Congress "to regulate commerce with foreign nations and among several States and with Indian tribes." The language, in plain English, clearly outlines this Nation's relations with these sovereign domestic nations we call Indian tribes. The Constitution set a precedent which has been repeatedly affirmed by the Supreme Court. The premier case was *Worchester* v. *Georgia*, in which Chief Justice John Marshall ruled that the State of Georgia could not infringe on the Cherokee Indian sovereign rights. This landmark case was defied by President Andrew Jackson, who is reputed to have said, "the Chief Justice has rendered his decision now let him enforce it." It was prophetic, in that it set a precedent for laws in the future, which would be ignored to the detriment of the Indian people. No we can't understand why Indians are ignoring or twisting the law. They have been good students.

Violations of the trust responsibility owing by this Nation to the Indian people is the hallmark of Federal-Indian relations. Those violations stem from either aggressive Federal acts or purposeful administrative omissions of a restricted Federal agent for the benefit of non-Indians.

A prime example of administrative BIA injustice is found in the recent budget manipulations in BIA. The tribes on the Colorado River have legal entitlement to an additional 600,000 or more acre-feet of water that they have not used. The State of California, through their own admission, is using 800,000 acre-feet more than they are legally entitled to.

I bring this up because in talking to tribes up in the Great Lakes area, in spite of the fact that they are trying to establish an Indian action team, there are rumors in Minnesota that the Bureau is turning in from their area about $9,000, and overall, over the whole country $5 million, in employment assistance funds. Why the decision to take $1,400,000 of desperately needed planning money?

Recently I accused that office, the State of California, and one of the Governor's officers, I accused them of improper planning. If they don't use the money they are going to lose the water, and they know it. If it is true that huge amounts of moneys are to be turned back into

the Treasury, and if it is also true that $1,400,000 of planning money that is desperately needed by the Western tribes, if this is true, on that basis alone this committee should take a look at the Bureau of Indian Affairs and Department of the Interior. I would like to add in support of what Lee said, I haven't had an opportunity to review his statement, but I would like to emphasize that I feel just like he does and the reason why I pressed to become the Economic Development Director after he left was the fact that I feel the education funds, training funds, welfare, alcoholism funds, economic development funds, as far as I am concerned are a frosting on the cake, as critically as they are needed and is the same thing that any poor citizens in this United States is entitled to.

The prime thing and the most important thing to the Indian people is their land and their water. This country, through its relationship with the Indians has an obligation to take care of this first.

I won't belabor you with the types of administrative details we went through, yet, as a ranking member of the Bureau of Indian Affairs, being boxed in by the Interior Department, OMB and a half million branch chiefs, we could not change that picture.

Senator ABOUREZK. Your position was supported by the Commissioner of the Bureau of Indian Affairs?

Mr. STEVENS. Yes, three of us pushed hard to change the whole budget structure and we couldn't measurably change it.

Senator ABOUREZK. In spite of the statement by the President that he had done more for the Indians and intended to do more?

Mr. STEVENS. That is correct. It seems to me the growing inclination of all of the committees, that we are all more and more being in support, and I might add on the side that all of these things that Indian people need, we can take care of that ourselves, it we only get the opportunity to develop our own natural resources and be able to protect our water.

Senator ABOUREZK. The land use planning bill does have an amendment that was placed in by the Interior Committee that would provide both money and means for the Indian tribes and people to develop their own resources, and if you haven't heard of that bill yet, it is going to be acted upon soon by the Senate.

Mr. STEVENS. Also, in two cases I know of, one of which I did not have the opportunity to review, in fact, I was the head of that development department, both the Papagos and Tesuque in New Mexico, were done out of certain safeguards they should have had in their water rights, and I think those types of things ought to be reviewed. I am not too sure whether that ought to be done annually, but certainly on a 3- or 4-year basis.

And in this particular case, in the case of the Papagos, although I am nowhere near a water expert, having fought over their rights for 3 years, I do know in the case of the Papagos that they gave away, and gave to this company, unlimited use to the rights of water. And we have some water experts, including a few in the Bureau, and they can tell you that that type of thing is unheard of. And why they didn't get a chance to look at it, I don't know. I know this is unheard of.

In the Tesuque Pueblo I have talked to the Native American Rights. Those people have obligated more water than that tribe has a right to. I don't know what they are going to drink 20 years from now.

Senator ABOUREZK. Do you know who in the Bureau of Indian Affairs made the decision to let that go through?

Mr. STEVENS. I don't know, Senator. All I know is I tried to find out, but I didn't get the surname.

Senator ABOUREZK. What did you learn?

Mr. STEVENS. Nothing. In other words, occasionally it goes right from the area office across the street as in the case of the Chemehuevi. However, it is an illustration to me how people get basic rights and wrongs mixed up. We always say the Indians say what is right and wrong and the non-Indians say what is legal or illegal.

Now, the central Arizona project is being built. It is crucial that the Colorado River Tribes immediately plan for and develop land to use their entitlement before they lose it. Pyramid Lake is trying to develop a natural fishery. Quinault is trying to save the "ripped-off" remnants of a once fine forest and watershed. Other tribes can tell the same story and yet internally the BIA has impounded the best part of $1,400,000 of planning money which is critical if the tribes are to plan for the use of their natural resources. The BIA sent letters to tribes using a flimsy excuse that they had not been able to perfect procedures for distributing the money. Now, money that was intended to save Indian land and water is being used to pay for salary increases. This constitutes an administrative and budgetary violation of the trust responsibility.

Loss of Indian natural resources by the failure of the Federal Government to prepare in contract legal limitations to safeguard Indian land for rights to the use of water is a classical device used by Federal agents to allow the loss of Indian property. Both the Papagos in Arizona and the Tesuque Pueblo in New Mexico, are now or in the future will suffer irreparable damage by reason of the failure of Federal agents to limit the use of invaluable waters that non-Indians may use under contractual, or other arrangements involving Indian rights. The Jicarilla Apaches of New Mexico are today being deprived of the use of water by the outright seizure of their rights by the Secretary of the Interior for non-Indian projects. Loss of a magnificent forest by the Quinaults in the State of Washington, stems from contracts prepared by the Secretary of Interior and authorized by him, is now resulting in the stripping of forest land, by the non-Indian contractors. The Quinaults are being systematically deprived of the value of their timber by reason of the failure properly to establish prices for the timber under the contract.

The Chemehuevi Tribe has over 11,000 acre-feet of adjudicated water rights and yet they are prevented from having access to their water by the Bureau of Land Management and the Fish and Wildlife Bureau. Although, BLM won't allow an electric power right-of-way to the tribe, BLM is leasing to two resorts and some private homes on the shoreline. The shore was originally captured by the Fish and Wildlife Bureau for a fowl refuge. Just how the non-Indian residents are related to ducks hasn't yet been determined. At any rate, the Indians can't use their own water because they can't get access to the shoreline that they own.

Accounts such as these are unfortunately all too familiar to this committee. I'll not belabor the point any further, but these specific cases not only relate to day-by-day activities but also relate to policies

and utilization of the budget and programs to implement those policies. I feel that this committee under the law should keep a close watch over such activities.

Some of the most flagrant examples of budgetary misuse of funds appropriated by Congress takes place in the allocation of moneys in the central office and the area offices of the Bureau of Indian Affairs. The thing that bothered me most was that altogether too much money was spent on salaries and administrative overhead. I believe that if this committee and the Appropriations Committees of the Congress were to investigate, you would find that over 90 percent of moneys appropriated by Congress for Indian people are used on salaries and administration. The second thing that bothers me is that the remaining funds are not allocated in any fair proportion to the Indian tribes.

In fiscal year 1972, as Director of Community Services I had occasion to become familiar with an administrative assessment program referred to in the Bureau of Indian Affairs as the "1299" program. This program represented a proposed figure of $26,642,000 of the fiscal year 1972 budget which had been earmarked for general administrative expenses. Of this sum, Congress had appropriated $6,057,000 for this purpose and officially authorized an additional $3,531,000 from the Bureau's spectrum of operating programs.

Senator ABOUREZK. Are you saying a total of $9 million was appropriated for this so-called "1299" program?

Mr. STEVENS. Yes, sir.

Senator ABOUREZK. OK, please continue.

Mr. STEVENS. Up to that point in time this particular administrative program represented a support side and area directors "grab bag" which utilized moneys appropriated by Congress for the programs of Indian tribes. Previously to fiscal year 1972, the practice had gone unchallenged. On August 30, 1971, the Director of Education and myself, as the Director of Community Services, challenged the allocation of the proposed "1299" program.

I would like to say on the side, sir, also in my experiences in the Bureau, all of the Bureau people want flexibility, and the administrative side of the Bureau want flexibility, the area office wants flexibility, but every time they get flexibility, Indian people start losing program money.

Senator ABOUREZK. Based on your experience, are you implying that the "1299" funds are a back door method of applying administrative overhead in the Bureau of Indian Affairs?

Mr. STEVENS. That's right, and because of the nature—as a matter of fact, I talked to the former Assistant Commissioner, who acted in the same office, and he fought that, and I just entered a new little trick into the game and refused to sign the allocation.

Senator ABOUREZK. Can you be more specific as to this "1299" program, how it works. First of all, where does the figure "1299" come from, the title, is that the account number?

Mr. STEVENS. Yes, sir.

Senator ABOUREZK. Can you give more details?

Mr. Stevens. They actually used $17 million over what was named in the programs, $17 million.

Senator ABOUREZK. The Bureau of Indian Affairs asked for an appropriation of x amount of dollars and used $17 million more than

that request for administrative overhead? Where did that $17 million come from?

Mr. STEVENS. The $17 million came from—is assessed on a percent time basis across the board to all of the program accounts that are appropriated by Congress for Indian people.

Senator ABOUREZK. By programed accounts, an example of that would be the education program, for example?

Mr. STEVENS. Yes, sir.

Senator ABOUREZK. And welfare program, for example?

Mr. STEVENS. Yes.

Senator ABOUREZK. And moneys taken out of those programs and used as an administrative expense account?

Mr. STEVENS. Yes, sir.

Senator ABOUREZK. Do you know of any authorization bill or law now in effect that provides for that to be done legally?

Mr. STEVENS. No. As a matter of fact, internally I challenged the legality of it when the Deputy Commissioner said he was going to go over me and close the budget in any way. I was told it was an unwritten agreement between them and the Appropriations Committee. Evidently, whoever on the Appropriations Committee had started the unwritten agreement is no longer with us. My objection is this-is the kind of example I mean by flexibility.

In executive staff meetings, that is, all people talked about was flexibility. In my estimation the area offices should have very little flexibility. In this particular case, and this particular time that I objected I proposed and there has been much said about our lack of management capability in a very neat management fashion, I suggested how we could save money that would come up to the tune of $7 million and this was on this particular year, fiscal 1972, and by cutting out various things that I didn't feel we needed, we could have turned $7 million over to Indian tribes for their programing needs and I did it by item, I did it at length over—I might add at that particular time we had 10 or 11 assistants to the Commissioner, that cost about $335,000, and most of them spent their time adding up their travel.

Senator ABOUREZK. I wonder, Mr. Stevens, if this is one example of what has been going on in the Bureau of Indian Affairs without the knowledge of anybody. I have not known about this before this year, and nobody in the BIA ever volunteered to tell me about it. Do you believe that this bill, S. 1786, that we are considering here today, would be a good method of putting a stop to these kinds of practices, by virtue of our oversight capability?

Mr. STEVENS. Yes, I do, Senator. The only thing I wondered about was the frequency. But certainly this is a periodic review and hard review, I might add, in reference to this particular account and this particular thing, figures can be misleading. I assume you received the figures from the Interior Department, and they say they used general expenses of $5,391,000. I guarantee if you make them hold that figure, about half the central offices and area offices will starve to death.

Senator ABOUREZK. What kind of controls does the BIA exercise over those funds, do you know?

Mr. STEVENS. In the last year we were in, we tried to keep it as tight as possible. They just spend what they have to spend. If you will notice,

right now the central office and area directors are meeting about once a month and this is supposed to be at a time when we are critically in need of money. When these area directors meet they usually take three or four of their people with them. They just had a meeting in Tucson, and I will bet that meeting cost $30,000, $40,000, and why they have to meet once a month is beyond me. Those area directors are supposed to run their business.

Senator ABOUREZK. Do you know in whose discretion it is to spend this money. Who makes the decision on how it is spent?

Mr. STEVENS. Up until the time that we came in, in 1970, the head of administration in the Bureau, I don't recall his name right now, was the one in charge of that. I know when I came in it was referred to like it was his one personal account. Then after I came in the Deputy Commissioner was in charge of that, the Commissioner having ultimate authority. This is why all four program directors fought against this particular thing, because we were already being assessed. I know, I go into this later on, but I will say it right now, I have read newspaper accounts and everything else, where they say they use about 5 percent in administration. The truth of the matter, and anybody that gets the records out and checks out how that money goes out to agencies, can tell you that 90 percent of the moneys of the BIA is spent in administration and salaries.

Senator ABOUREZK. What is the annual appropriation, $544 million this year?

Mr. COOK. It really amounts to about $470 million.

Senator ABOUREZK. Are you saying 90 percent goes to the administration and about 10 percent reaches the Indian people?

Mr. STEVENS. Yes, sir, if that.

Senator ABOUREZK. Do you have anything to base that on?

Mr. STEVENS. I have some figures which I have misplaced here. I believe the Bureau had an internal memorandum recently from Economic Development which laid this out, at least from their viewpoint. But I am sure there are other parts of the Bureau that have gone into this.

Mr. COOK. In the Office of Economic Development we had management and real estate appraisals, all of the money in those categories in the Office of Economic Development were in many cases 100 percent, not just 90 percent, for staff and personnel across the board.

Senator ABOUREZK. Of some programs?

Mr. COOK. The only one in that office that had flexibles was money allotted by projects and industrial development that had about $300,000. The rest of the $1.5 million for industrial development was for soil, soil and moisture conservation, credit and financing all for staff.

Senator ABOUREZK. I want to say at this time, Mr. Bruce of the BIA is here, sitting here in the hearing today, and I would like to state at this time, Mr. Bruce, that our hearings on the BIA reorganization which is scheduled for June 25, I would like to relay to you at this time that we are going to inquire of the Interior Department and BIA into this so-called 1299 account and hopefully I want to do it in depth. I would appreciate it if you would bring whatever personnel

and records are necessary to answer questions on this particular subject.

Mr. STEVENS. The people that we have, when Lee was in Economic Development and when I was, we were desperately trying to find seed money, brick and mortar money, anything we could get our enterprises started. Our people are ready to go. Yet we have to painfully go through a process of trying to find money. Yet the administrative people could literally create a training program or administrative type of program without going through a review that we had to go through, and we felt that ours was more important, particularly as it pertained to the real estate situation and the water.

One of the offices which was funded under the 1299 account was the Office of Management Systems. Its job was to provide professional management services to the four program directors of the Bureau of Indian Affairs. Such was the state of the BIA management assistance to programs, that in the fall of 1972, all program directors of the BIA requested that the Office of Management Systems be abolished. This Office represented $2.9 million, all of which was to be financed through the 1299 clearing account.

In October of 1972, in reference to the establishment of an agency for five tribes in south-central Wisconsin, the Commissioner of Indian Affairs had cause to address this same office by saying, "I do not want to receive further memorandums saying that you are unable to complete the assignment because you do not have the information. It is this type of inefficiency from your office that has been a source of constant complaints from each of the program directors which led to the examination of your office's activities."

This particular office was a large part of the management support mechanism which was supposed to assist the program directors in administratively implementing the policies which we were directed to initiate. Much to my dismay this particular office refused to manage. At a time when the new team was being criticized for not being able to manage, we were being undermined by support people who were being paid almost $3 million to be managers.

Our detractors said that we were forcing Indians to contract when they weren't ready. Indians never seem to be ready. In interviews with some of our support administrators it was pointed out by them that we were abusing Federal procurement regulations and using outdated laws to accomplish our aims. All I can say is that we learned from experts. Consider the Interior Department investigative report of October 1971—"The Bureau has been operating under a 'de facto' exemption from the Federal procurement regulations and this condition has existed for a long time. Most of the things we found wrong represent a continuation of longstanding practices. While the new thrust of Bureau programs toward tribal involvement have added to the problems, a conclusion identifying policy changes as the principal cause is, in our opinion, incorrect." This piece of left-handed praise came from the investigative arm of the Department of the Interior who, believe me were not exactly our fans.

The punch line in this monolog is to point out that the same Interior report stated under its first point that, "there was a definite lack of procurement expertise which could only be resolved by making per-

sonnel changes." Therein lies the primary problem of the "Katzenjammer Kids," their managers couldn't manage. To coin a phrase of a former commissioner, our administrative support people "couldn't walk and chew gum at the same time," much less legally accomplish contracting procedures. The overhauling of contracting procedures related to the "By Indian Act" was accomplished by Bob Gajdys and Alexander MacNabb, both "new teamers."

It has been my experience as a member of the Bureau of Indian Affairs that at least a great many administrators within the BIA spend a majority of their time looking after their own rights as Federal employees and the remaining time trying to find administrative methods by which he can get more flexibility. Believe me, whenever an administrator gets flexibility an Indian tribe loses more program money.

A fellow program director in the BIA alluded to the basic problem when he often referred to the fact that "Federal jobs were competing with Indian program dollars." It was never more evident that in 1971 fiscal year when the "employment assistance" appropriation for the BIA was $42 million. At that time $20.5 million was tied up in program administration. The Indian action team concept later proved that it could administer millions of dollars with few employees. Needless to say, this program's 800 employees were not particularly enthused with the program.

My suggestion is that this committee and the Appropriations Committee make the Bureau of Indian Affairs pay dearly for every new position. Further, there is not one new program need of the tribes which can't do a better job by giving the tribe a check.

There are certain BIA administrators, particularly from the area offices, who would have Indians believe that the trust responsibility is strengthened or lessened in direct ratio to amounts of BIA employees. There are many cases which I can cite which might very well prove the reverse. I know that there are a lot of high civil service grades in BIA right now who won't be allowed to guard my chickens.

In conclusion I would like to say that the Indian people are not going to make strides forward to our satisfaction until we are free from fear of termination and when the Congress puts teeth into legislation such as this and assures the Indian people that efficiency in their own government will not be disastrous to them. Only then will our people be willing to remove this unnecessary extra layer of Government and govern themselves in a manner that will do us proud.

Senator ABOUREZK. Mr. Bruce, I asked Mr. Kyl if he would deliver a breakdown of how much money does reach the Indian people. I would like to have the committee supplied with the internal memorandum concerning how much money went for administration and how much went to the Indian people themselves.

Mr. Stevens and Mr. Cook, I wonder, with regard to the question as to whether the BIA should come up and justify itself to this committee of the Congress, simultaneous to that is the question you just raised to how the money is spent, and the experience both of you had in the Bureau is invaluable to this committee.

I want to ask you at this time if you want to relate any other areas that you know of, with your own personal experience that you can

talk about and tell the committee today, so we can indeed work toward a better Indian Federal program, because I think you know that is the intention of this committee to do so and you can't do it without adequate information.

We would appreciate it if you at this time would be able to provide us with any information that would be helpful in that regard.

Mr. STEVENS. I would like to give the committee a little personal insight that has to do with my previous background at the Tribal Council of California. Also, since I am an Oneida Indian from the Great Lakes area, I associate quite a bit with mostly the Chippewas in that area, western Washington. If the Senator will notice we had a very severe split, not only in terms of the militants and nonmilitants, but in terms of "haves" and "have nots." I would challenge the Bureau of Indian Affairs to show us whether or not they had a system of equitable distribution.

From the very first I say this is an evil. For instance, in the Minneapolis area office, they have a budget of approximately $11 million and only a superficial look will say we had 500 and some million dollars, and whether or not you want it to go down to 30,000 people, if they have $11,000, it doesn't take long to see that they are getting cheated badly and all of the Indians.

Again I did not want to take away from those tribes who were getting more than the other, I wanted to institute a system of equitable distribution, by which you can actually set up a base, item by item, and you can put in variables, such as need in the case of higher education, but in the case of higher education they can get, for instance, graduating seniors and how many kids in college, that would be the base, and need could be the variable. Every budget line item in the Bureau, whether real estate, forestry or anything else could get an equitable distribution. It is my feeling, and we recommended this, and this is when we said, I mean Alexander MacNabb and myself, and we said the entire central office of the Bureau could be run by 75 people and we felt that the central office of the Bureau should be a checkwriting center and there should be an equitable distribution of funds.

It can be done. It can be done very easily. I would suggest that somebody in the Interior Department or Office of Management and Budget or some outside force come in and do it for the Bureau, because I know from the 3 years we tried we could not do it internally. It has to be done from the exterior, possibly with the committee getting involved. This is one of the most evil things that exists in the Bureau.

If I can show you a tribe that I get along with, or used to get along with, or didn't get along with as Executive Director of Intertribal Council, as a member of the Oneida Tribe, I will show you it is because Lee Cook and myself were advocates on behalf of the haves and have-nots. That is what gets some of the smaller tribes and scattered tribes and traditional poor tribes extremely angry. It gives the Bureau officials an opportunity to play us off against each other, which they do. Any time you see a public statement by a tribal leader, every time a big tribal leader gets up and says something, and Lee and I can match it with a little guy who doesn't have anything.

This is going to go on until an equitable system can be set up, and it can be done with a computer.

Senator ABOUREZK. You are saying that the flexibility of the people that are of high administration in the Bureau, that is they do what they want to do to the detriment of some of the Indians around the country?

Mr. COOK. I think one of the kind of policies that I have at least plugged out between the lines in looking at a 10-year review of the BIA budget was in my mind—I talked about the demeaning or deluding of the structure of the judiciary responsibility of the Bureau. In my mind it was kind of an unwritten thing that said, No. 1, you don't request or pursue a funding that will improve or develop reservations; No. 2, you push programs to get Indians off reservations; and No. 3, you push programs to give Indians a job. That was a policy that we called a conflict of interest between the Department of Justice and the Department of the Interior.

We asked why the—but the mentality just won't permit the Indian communities to go through with the kind of developmental process I think they need to go through. Somehow in this society today we are asking to participate, and they want us to jump on either side of the net, and we haven't gone through the agricultural revolution in this country. That kind of development takes massive input. One of the kinds of things that we have to go through all of the time in the Office of Economic Development, addressing ourselves to the national resources programs, is the fact that although Interior is a national resources department, national resources for the BIA are not measured in the same way other departmental programs are measured.

What it is, you get national resources and conservation to compete with schools for children. When you are looking at a situation where the national resources programs are gaged on the inputs into them, and it is not true for the rest of the Department, and you also got the hassle that you go through with the so-called cost beneficiary.

I remember arguing with Mr. McKitten, he said if you take a large amount of money and want to put it into your systems, could you equate that with lack of the on the job training. So you look at the situation, where they want immediate benefits, you are looking at input that you are going to say in the realization of the inputs over a long period of time. We go through that kind of rationale, and it is very systematic in strangling priority programs that Indians are requesting, because you can justify them on a cost benefit kind of ratio and you can't compare the number of seats in a school against an irrigation project. But that tells—if you go through with the budget process, you are talking about the national resources programs, you are looking in every case.

If you were to put a vote out in the Indian country and say what kind of things do you want first, and in my mind, if you aligned all of these items up in the Bureau's budget, aline them up according to your priorities, they would come up in the past and in my mind come up again, with real estate management, real estate appraisal, irrigation construction, those kinds of things that just don't have a high priority within the Department, but are hard to argue in terms of the cost benefit if you use those kinds of priorities and measure them against human

resources. You just can't do that. In every case the priority benefit becomes personalized. If you look at the level of funding over a long period of time, the level of funding has been kept constant. I remember over a year ago Mr. Rogers was saying the Bureau of Indian Affairs—those increases have come in the area of human resources, to point out we have increased our welfare vote as a measure of the success of the BIA, but say nothing about the injections into national resources, in fundamental trust responsibility.

You were talking about some kind of appropriate measure to assure the tribes' termination is not going down the pike.

In my mind I think it would be if Congress would prohibit the exercise of eminent domain with respect to Indian land, rights to Indian water, and explicit authorization by Congress. We see the precedent being set in the court and by Congress that equate Indian lands with other land. You have a situation in Pyramid Lake like this, but at any rate, that is the kind of thing we are going through.

I think in order to abate this kind of valid threat, that kind of legislation would in my mind provide the kind of assurance in this country that once they get their head out of the shell it is not going to be cut off. And at this point that valid threat always is showing.

Mr. STEVENS. Senator, in the amounts of dollars that are actually beneficial to the Indian tribes is a little higher than it was a few years ago, I know it is, because we went from approximately $3 or $4 million in contracting to some $40.

While I think there have to be some things done with the contracting mechanism, hopefully the legislation will go through. I think a lot of the things were overstated, like, for instance, I would like to bring to your attention if one reads the newspapers, I used to be incited by some of the reporters who used to praise us because it pleased them to point out young activists and so on.

John Crow said we were neither that young or that active. I will point out that the Department of Interior—I would like to quote this:

> Considering an Interior Department investigative report of October 1971, the Bureau has been operating under a defacto exception from the Federal procurement regulations and this condition has existed for a long time. Most of the things we found wrong represent a continuing of longstanding practices, while the new thrust has added to the problem a conclusion identifying policy changes as the principal cause, is in our opinion incorrect.

This piece of praise came from the investigative arm of the Interior Department.

One of the practices that take place in it pertains to this piece of legislation. The Federal people have a habit of contacting, what you do is take positions, they are vacated from transfers, and so on, and maybe you contract that position or positions. What they like to do, and this is what this particular auditor was talking about, they keep their people in the position and then they contract anyway to the Indian people for the same service the staff is doing. That is formerly a widespread practice, I don't know if it still is, but it was the last time I heard.

Senator ABOUREZK. Thank you.

Senator Bartlett.

Senator BARTLETT. Mr. Chairman, thank you very much.

Mr. Cook and Mr. Stevens, I thank you for appearing before our committee and I compliment you on a very sincere and deep and penetrating analysis of various aspects of the BIA.

Mr. Stevens, how important do you think industrial development is to solving Indian problems?

Mr. STEVENS. I think industrial development, as the description reads, in other words, plant relocation is fairly minimal. Let me give you a specific example.

When I first came into economic development I came in and told the branch chief of industrial development that I considered the industrial development program needed quite a bit of change and furthermore I didn't think it was at a premium. I would like to add that the industrial development people by the nature of their position, the description of it infers they should specialize in plant relocation and plant relocation has been notoriously bad. For instance, one of the economists that worked for me was telling me that the cost beneficiaries were excellent and as a matter of fact one of the most successful in the Bureau. It does not take very long to shoot that out. He told me that approximately 16,000 jobs were created in 10 years. I said, all right, how many of them were Indians? It turned out there are a little over 7,000 Indians. And then how many women, and I can't remember that, and so on. Then when it finally got down to the small figure, I laughed and said, you mean 10 years, and we not only have spent $10 million in the Bureau, but the Department of Labor has spent money, and the Economic Development Administration and the tribes themselves. I said, yet we only have less than 7,000 jobs for our people, and if you pardon me, sir, we are having children faster than that. So the benefits are minimal.

I feel that basically the resources of the reservation should be assessed, whatever they are, natural and human. At that point we should decide in the base of, for instance, natural resources, what can be produced from that. We should start from that, with an inventory and start building on each reservation.

In my tribe, for example, we haven't been so successful with our park, but that is our fault. I think industrial allocation is excellent. It is a tribal thing, depending where its at.

Senator BARTLETT. You are saying, as you saw it, the industrial development program did not work effectively. Do you think industrial development offers an answer to many Indian problems?

Mr. STEVENS. Yes, sir. I would say in certain areas—parts of Oklahoma—I would say there is excellent opportunity; like in southern California; I believe the ones located right near Phoenix; I think it is a matter of location. I don't know if they have any, but along the Colorado River I believe it would be excellent also. In North Dakota you can't put an industrial park where its 50 miles from the Canadian border, no trains and no airplanes. It depends on where its at.

Mr. COOK. Can I answer that?

Senator BARTLETT. Yes.

Mr. COOK. Industrial development, I guess means different things to different people. Most people think of industrial development with buildings and smoke stacks. You could really remove the industrial development in the Bureau now from existence and nobody will know

it is gone. The staff, $1.5 million in staff of the present program, pretty much headquartered in Washington, and that come off satelites in Los Angeles and Chicago, most of the kind that has little relevance to reservations.

What the tribes have been trying to do was express needs for local packages on the reservation. They say they don't need promoters in Washington, Chicago, and Los Angeles. They say the existence of a super structure and a super honcho in Washington, D.C., and other places in the United States is not constructive.

So I don't think we have anything that can benefit the Indian country, and with people that are in fact working with tribal councils and with the Reservation Development Association, industrial development, in terms of just simply generating jobs, again, takes a lot of different avenues.

You are looking at agricultural parts and that sort of thing as opposed to urban oriented industrial parks. We have industrial parks throughout this country and over half of them are still vacant. Many of them were put together with feasibility studies that more relevant to generating a project for an engineer, as opposed to being relevant to attracting industry to locate in a reservation.

The present industrial development staff of the BIA has not got the capability of putting it together. Most of the guys that worked in that program, and as somebody has said about some of our people, "they would have a tough time walking and chewing gum at the same time." They couldn't quite put an industrial program together. I might add that, with respect to the comments made prior hereto about the "halves" and the "have nots," it seems to me that most of the Government programs today, both by Commerce on one hand, HUD, OEO, they have been kind of turned around, they have suggested to put in money with very little significant change. It seems to me if you address yourself to a number of kind of projects by project or reservation by reservation development, if you approach it sort of like if you had an extreme amount of indebtedness, and you lined up your debts from smallest to biggest, and it seems to me that the smaller ones would take smaller injections of funds. Now we have reached a point of being self sufficient, we can take care of ourselves. When you get to the larger ones, you have larger injections of funds to put into the larger problems.

We absorb all of the cash from OEO, SBA, and BIA and everybody, it seems to me if you reverse that and put systematic injections and coordinated funds into the smaller funds, you are going to walk away from there with a much less investment. The cost benefit of the injection of dollars winds up in a very much shorter period of time, with taxpaying, employed people. That is both a savings in terms of taxes, in health, and contributing taxpayers and in terms of absorbing tax funds and ignored beneficial programs because they haven't the tools to put them together. You combine them, priority on have nots and smaller reservations we can get down to manageable reservations in a shorter period of time.

Senator BARTLETT. Do you feel more and better jobs is one of the primary goals in solving Indian problems?

Mr. COOK. Without question. I think one of the better——

Senator BARTLETT. Do you say yes?

Mr. COOK. Yes. I would like to put a plug in one of the programs trying to get through the Congress for years, generated jobs with more income, was that little Indian developmental program. I hope that will get itself approved. But that little program was a new departure for the BIA and really wound up having, in my mind, the best kind of results of any program to date.

Senator BARTLETT. You both expressed a concern about the frequency that this bill will require in creating an authorization program. Do you feel that the goals that you would like to see achieved would be at least achievable with a review of the current laws and rewriting of current law?

Mr. COOK. Well, I am not sure. Congress has the authority to change the budget structure of an agency. I think that ought to be the first point of attack and first point of departure. One of these I might add to the BIA when they come to you with the information about "1299," they should come to you with their charts and relate them to the budget structure. You have reorganization and reorganization, but the budget does not reflect the structure of BIA.

Senator ABOUREZK. Can I break in and make that official request to Mr. Bruce, that you bring your official charts.

Thank you.

Mr. COOK. If you took all of the line items in BIA's budget there are about 17 different line items. That is one thing for us to handle at this level, at the area level, you have 30 line items, and 30 lines that you can't do anything with the nickels you have. You have to reestablish the fact that the Secretary must review the budget with the tribe before any request is made to Congress. I think this ought to be reemphasized and reiterated and made, and I think in terms of input and expression of priority from the Indian comments, so they reflect the express priorities of the Indian community. I want to reiterate in my mind, if you are going to do a job in terms of an oversight review of the program, much of the impediments of doing an effective job is simply because the budget doesn't provide it. I think you have the authority to change the budget structure and I think you ought to take that authority and get lump sums out to the reservations.

Senator BARTLETT. Mr. Chairman, I thank the two gentlemen very much and I will be happy to divert away from the hearings right away for the moment, to move that S. 1341 be reported out of the Senate Committee to the full committee.

Senator ABOUREZK. We will adjourn the hearing first and go into markup and do that quickly. I want to express my gratitude to both Mr. Cook and Mr. Stevens for the testimony you have presented today. The committee is very grateful, because too often we are not aware of the working of Government agencies, and it is important to have the testimony of people who do know that. I want to thank you very much and we hope to see you again at future hearings we have and we will ask you to come in and testify regarding specific programs.

At this time the hearings on this legislation are adjourned, and we will proceed immediately into markup on S. 1341, which is under the new open democratic rules of the Interior Committee, open to the public.

[Whereupon at 12 noon the hearing was adjourned.]

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